RECORD AND BRIEFS

No. 14-1538

SEP 1 - 2016
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

LIFE TECHNOLOGIES CORPORATION; INVITROGEN IP HOLDINGS, INC; APPLIED BIOSYSTEMS, LLC,
Petitioners,

v.

PROMEGA CORPORATION,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Federal Circuit

JOINT APPENDIX

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PETITON FOR CERTIORARI FILED JUNE 26, 2015
CERTIORARI GRANTED JUNE 27, 2016

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NOTICE

The following documents have been omitted from the printing of this Joint Appendix. They may be found in the Petitioners' Appendix to the 14-1538 Petition For A Writ Of Certiorari at the following pages:

Promega Corp. v. *Life Techs. Corp.*, 773 F.3d 1338 (Fed. Cir. 2014) 1a

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U.S. DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN (MADISON)

Civil Docket For Case #: 3:10-cv-00281-bbc

PROMEGA CORPORATION ET AL

v.

LIFE TECHNOLOGIES CORPORATION

RELEVANT DOCKET ENTRIES

DATE	NO.	PROCEEDINGS
05/26/2010	1	PATENT COMPLAINT against all defendants (Filing fee $350 receipt number 075800000000000559067) filed by all plaintiffs. (Sealed Document) PATENTS AT ISSUE: Patent # 5843660, issued 12/01/1998, held by Promega Corporation; Patent # 6,221,598, issued 04/24/2001, held by Promega Corporation; Patent # 6,479,235, issued 11/12/2002, held by Promega Corporation; Patent # 7,008,771, issued 03/07/2006, held by Promega Corporation; Patent # RE37,984, issued 02/11/2003, held by Max-Planck-Gesellschaft zu Forderung der Wissenschaften e.V. (Attachments: # 1 Exhibit A - U.S.Patent No. 5,843,660, # 2 Exhibit B - U.S. Patent No.

DATE	NO.	PROCEEDINGS
		6,221,598, # 3 Exhibit C - U.S. Patent No. 6,479,235, # 4 Exhibit D - U.S. Patent No. 7,008,771, # 5 Exhibit E - U.S. Patent No. RE37,984, # 6 Exhibit F - 1996 License Agreement, # 7 Exhibit G - ABI Cross License, # 8 JS-44 Civil Cover Sheet, # 9 Summons, # 10 Report on Filing Patent/Trademark Action) (Troupis, James) Modified on 6/9/2010 (arw). Exhibits unsealed per dkt. 779 on 7/11/2013 (rep). (Entered: 05/26/2010)
		* * * *
09/02/2011	227	MOTION FOR SUMMARY JUDGMENT by Plaintiff Promega Corporation. Brief in Opposition due 9/23/2011. Brief in Reply due 10/3/2011. (Troupis, James) (Entered: 09/02/2011)
		* * * *
11/29/2011	345	ORDER denying as unnecessary 293 Motion for Leave to File; granting 262 Motion to Strike; granting in part and denying in part 227 and 234 Motions for Summary Judgment. Signed by District Judge Barbara B. Crabb on 11/29/2011. (llj) (Entered: 11/29/2011)
		* * * *

DATE	NO.	PROCEEDINGS
02/01/2012	485	Stipulation *to Expand Summary Judgment Ruling and Request to Try All Remaining Issues in Single Trial* by Counter Claimants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation, Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation, Plaintiffs Max-Planck-Gesellschaft zur Forderung der Wissenschaften E.V., Promega Corporation, Counter Defendant Promega Corporation. (Johnson, Kristine) Modified on 2/2/2012 (jaf). Modified on 2/2/2012 (llj). (Entered: 02/01/2012)
02/01/2012	486	ORDER ruling on motions to strike, motions in limine and motion to dismiss. Signed by District Judge Barbara B. Crabb on 2/1/2012. (llj) (Entered: 02/01/2012)
		* * * *
02/06/2012	512	ORDER amending 11/29/2011 order 345 to grant summary judgment to plaintiff Promega Corporation with respect to infringement of that product and claim. Signed by District Judge Barbara B. Crabb on 2/6/2012. (llj) (Entered: 02/06/2012)
		* * * *

DATE	NO.	PROCEEDINGS
02/06/2012	517	Transcript of 1st Day Jury Trial, morning session, held 2/6/2012 before Judge Barbara B. Crabb. Court Reporter: LS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/06/2012)
02/06/2012	518	Minute Entry for proceedings held before District Judge Barbara B. Crabb: Jury Selection held on 2/6/2012. [2:32] (Court Reporter LS.) (krj) (Entered: 02/06/2012)
02/06/2012	519	Amended Deposition Designations (*Third Amended*) by Counter Claimants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation, Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (McCarthy, Michael) (Entered: 02/06/2012)
02/06/2012	520	Trial Brief re: Grounds for Equitable Defenses, filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (Sealed Document) (Johnson, Kristine) Modified on 2/7/2012 (llj). (Entered: 02/06/2012)

DATE	NO.	PROCEEDINGS
02/07/2012	521	Transcript of 1st Day Jury Trial, afternoon session, held 2/6/2012 before Judge Barbara B. Crabb. Court Reporter: LS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/07/2012)
02/07/2012		Set/Reset Trial Date: 2nd Day Jury Trial set for 2/8/2012 at 9:00 AM. (lak) (Entered: 02/07/2012)
02/07/2012	522	Transcript of 2nd Day Jury Trial, Volume 2-A, held 2/7/2012 before Judge Barbara B. Crabb. Court Reporter: LS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/07/2012)
02/07/2012	523	Redacted Trial Brief 520 re: Grounds for Equitable Defenses, by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation (Johnson, Kristine) Modified on 2/8/2012 (llj). (Entered: 02/07/2012)
02/07/2012	524	Notice by Counter Claimants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life

DATE	NO.	PROCEEDINGS
		Technologies Corporation, Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation *of Stipulation Regarding Worldwide Sales of STR Kits.* (Sealed Document) (McCarthy, Michael) Modified on 2/8/2012 (llj). (Entered: 02/07/2012)
02/07/2012	525	Amended Deposition Designations (*Fourth Amended*) by Counter Claimants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation, Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (McCarthy, Michael) (Entered: 02/07/2012)
02/08/2012	526	Minute Entry for proceedings held before District Judge Barbara B. Crabb: 2nd Day Jury Trial held on 2/7/2012. Trial continues. [6:38] (Court Reporter LS/CS.) (krj) Modified on 2/9/2012 (krj). (Main Document 526 replaced on 2/9/2012) (krj). (Entered: 02/08/2012)
02/08/2012	527	Transcript of 2nd Day Jury Trial, Volume 2C, held 2/7/2012 before Judge Barbara B. Crabb. Court Reporter: LS. Please review the court policy regarding electronic

DATE	NO.	PROCEEDINGS
		transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/08/2012)
02/08/2012		Set/Reset Trial Date: 3rd Day Jury Trial set for 2/9/2012 at 9:00 AM. (lak) (Entered: 02/08/2012)
02/09/2012	528	Minute Entry for proceedings held before District Judge Barbara B. Crabb: 3rd Day Jury Trial held on 2/8/2012. Trial continues. [6:46] (Court Reporter LS/CS.) (krj) Modified on 2/9/2012 (krj). (Main Document 528 replaced on 2/9/2012) (krj). (Entered: 02/09/2012)
02/09/2012	529	Transcript of 3rd Day Jury Trial, Volume 3C, held 2/8/2012 before Judge Barbara B. Crabb. Court Reporter: LS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/09/2012)
02/09/2012	530	Transcript of 3rd Day Jury Trial, Volume 3A, held 2/8/2012 before Judge Barbara B. Crabb. Court Reporter: LS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions, and Notice

DATE	NO.	PROCEEDINGS
		of Intent to Request Redaction. (llj) (Entered: 02/09/2012)
02/09/2012		Set/Reset Trial Date: 4th Day Jury Trial set for 2/10/2012 at 9:00 AM. (lak) (Entered: 02/09/2012)
02/09/2012	531	Transcript of 4th Day Jury Trial, Volume 4A, held 2/9/2012 before Judge Barbara B. Crabb. Court Reporter: LS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/09/2012)
02/09/2012	532	Motion in Limine *No. 12: Barring Testimony of Dr. Jessica Booker as to the Reasonableness of Defendants' Interpretation of the 2006 License Agreement* by Plaintiff Promega Corporation. (Troupis, Sarah) (Entered: 02/09/2012)
02/10/2012	533	Minute Entry for proceedings held before District Judge Barbara B. Crabb: 4th Day Jury Trial held on 2/9/2012. Trial continues. [6:35] (Court Reporter LS/CS.) (krj) (Entered: 02/10/2012)
02/10/2012		Set/Reset Trial Date: 6th Day Jury Trial set for 2/13/2012 at 09:00 AM (krj) (Entered: 02/10/2012)

DATE	NO.	PROCEEDINGS
02/10/2012	534	Transcript of 4th Day Jury Trial, Volume 4C, held 2/9/2012 before Judge Barbara B. Crabb. Court Reporter: LS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/10/2012)
02/12/2012	535	Supplemental Objections to *and Proposed Revisions to Jury Instructions and Special Verdict Form* by Plaintiff Promega Corporation (Attachments: # 1 Exhibit A - Stipulation on Sales, # 2 Exhibit B - Feb. 6 Email, # 3 Exhibit C - Excerpt from 2/6/12 Transcript, # 4 Exhibit D - Excerpt from 2/9/12 Transcript) (Troupis, Sarah) (Entered: 02/12/2012)
02/12/2012	536	Motion to Strike *the Errata Sheet of Daniel Hall* by Plaintiff Promega Corporation. Response due 2/21/2012. (Troupis, Sarah) (Entered: 02/12/2012)
02/12/2012	537	Brief in Support of 536 Motion to Strike *the Errata Sheet of Daniel Hall* by Plaintiff Promega Corporation (Troupis, Sarah) (Entered: 02/12/2012)

DATE	NO.	PROCEEDINGS
02/12/2012	538	Motion in Limine *No. 13: Barring Testimony of Jonathan Tomlin Outside the Scope of His Expert Report* by Plaintiff Promega Corporation. (Troupis, Sarah) (Entered: 02/12/2012)
02/13/2012	539	Minute Entry for proceedings held before District Judge Barbara B. Crabb: 5th Day Jury Trial held on 2/10/2012. Trial continues. [6:17] (Court Reporter LS/CS.) (krj) (Entered: 02/13/2012)
02/13/2012	540	Supplemental Objections *and Proposed Revisions to the Proposed Post-Trial Jury Instructions and Special Verdict Forms* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (Attachments: #1 Exhibit A - Post-Trial Instructions, # 2 Exhibit B - Federal Circuit Opinion) (Johnson, Kristine) Modified on 2/14/2012 (jaf). Modified on 2/14/2012 (llj). (Entered: 02/13/2012)
02/13/2012	541	Transcript of 5th Day Jury Trial, Volume 5C, held 2/10/2012 before Judge Barbara B. Crabb. Court Reporter: LS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice

DATE	NO.	PROCEEDINGS
		of Intent to Request Redaction. (llj) (Entered: 02/13/2012)
02/13/2012	542	Transcript of 5th Day Jury Trial, Volume 5A, held 2/10/2012 before Judge Barbara B. Crabb. Court Reporter: LS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/13/2012)
02/13/2012	543	Transcript of 2nd Day Jury Trial, Volume 2B, held 2/7/2012 before Judge Barbara B. Crabb. Court Reporter: CS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/13/2012)
02/13/2012	544	Transcript of 2nd Day Jury Trial, Volume 2D, held 2/7/2012 before Judge Barbara B. Crabb. Court Reporter: CS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/13/2012)
02/13/2012	545	Transcript of 3rd Day Jury Trial, Volume 3B, held 2/8/2012 before Judge Barbara B. Crabb. Court

DATE	NO.	PROCEEDINGS
		Reporter: CS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/13/2012)
02/13/2012	546	Transcript of 3rd Day Jury Trial, Volume 3D, held 2/8/2012 before Judge Barbara B. Crabb. Court Reporter: CS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/13/2012)
02/13/2012	547	Transcript of 4th Day Jury Trial, Volume 4B, held 2/9/2012 before Judge Barbara B. Crabb. Court Reporter: CS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/13/2012)
02/13/2012	548	Transcript of 4th Day Jury Trial, Volume 4D, held 2/9/2012 before Judge Barbara B. Crabb. Court Reporter: CS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/13/2012)

DATE	NO.	PROCEEDINGS
02/13/2012	549	Transcript of 5th Day Jury Trial, Volume 5B, held 2/10/2012 before Judge Barbara B. Crabb. Court Reporter: CS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/13/2012)
02/13/2012	550	Transcript of 5th Day Jury Trial, Volume 5D, held 2/10/2012 before Judge Barbara B. Crabb. Court Reporter: CS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/13/2012)
02/13/2012		Set/Reset Trial Date: 7th Day Jury Trial set for 2/14/2012 at 9:00 AM. (lak) (Entered: 02/13/2012)
02/13/2012	551	Video Deposition Designations *Presented at Trial* by Plaintiff Promega Corporation. (Attachments: # 1 Exhibit A - Video Designations) (Troupis, Sarah) Modified on 2/14/2012 (llj). (Entered: 02/13/2012)
02/13/2012	552	Final Deposition Designations *Presented to the Jury* by Counter Claimants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc.,

DATE	NO.	PROCEEDINGS
		Life Technologies Corporation, Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (Sealed Document) (McCarthy, Michael) Modified on 2/14/2012 (llj). (Entered: 02/13/2012)
02/14/2012	553	Third Objections to *Jury Instructions and Special Verdict Form* by Plaintiff Promega Corporation (Troupis, James) Modified on 2/14/2012 (jaf). Modified on 2/15/2012 (llj). (Entered: 02/14/2012)
02/14/2012	554	Minute Entry for proceedings held before District Judge Barbara B. Crabb: 6th Day Jury Trial held on 2/13/2012. Trial continues. [6:55] (Court Reporter LS/CS.) (krj) (Entered: 02/14/2012)
02/14/2012	555	Transcript of 6th Day Jury Trial, Volume 6C, held 2/13/2012 before Judge Barbara B. Crabb. Court Reporter: LS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/14/2012)
02/14/2012	556	Transcript of 6th Day Jury Trial, Volume 6A, held 2/13/2012 before Judge Barbara B. Crabb. Court

DATE	NO.	PROCEEDINGS
		Reporter: LS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/14/2012)
02/14/2012		Set/Reset Trial Date: 8th Day Jury Trial set for 2/15/2012 at 09:00 AM. (llj) (Entered: 02/14/2012)
02/14/2012	557	Transcript of 6th Day Jury Trial, Volume 6B, held 2/13/2012 before Judge Barbara B. Crabb. Court Reporter: CS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/14/2012)
02/14/2012	558	Transcript of 6th Day Jury Trial, Volume 6D, held 2/13/2012 before Judge Barbara B. Crabb. Court Reporter: CS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/14/2012)
02/14/2012	559	Transcript of 6th Day Jury Trial, Volume 6E, held 2/13/2012 before Judge Barbara B. Crabb. Court Reporter: CS. Please review the court policy regarding electronic

DATE	NO.	PROCEEDINGS
		transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/14/2012)
02/14/2012	560	Notice by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation *of Proffer of Excluded Witness Testimony.* (Johnson, Kristine) (Entered: 02/14/2012)
02/14/2012	561	Notice by Counter Claimants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation, Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation *of Proffer of Anticipated Testimony of Arthur Eisenberg.* (McCarthy, Michael) (Entered: 02/14/2012)
02/15/2012	562	Minute Entry for proceedings held before District Judge Barbara B. Crabb: 7th Day Jury Trial held on 2/15/2012. Trial continues. [5:38] (Court Reporter LS/CS.) (krj) (Entered: 02/15/2012)
02/15/2012	563	Transcript of 7th Day Jury Trial, Volume 7A, held 2/14/2012 before Judge Barbara B. Crabb. Court Reporter: LS. Please review the court policy regarding electronic

DATE	NO.	PROCEEDINGS
		transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/15/2012)
02/15/2012	564	Minute Entry for proceedings held before District Judge Barbara B. Crabb: 8th Day Jury Trial held on 2/15/2012. Verdict returned in favor of Promega Corporation. [:10] (Court Reporter LS.) (krj) (Entered: 02/15/2012)
02/15/2012	565	Introductory Jury Instructions. (krj) (Entered: 02/15/2012)
02/15/2012	566	Liability and Damages Jury Instructions. (krj) (Entered: 02/15/2012)
02/15/2012	567	Jury Verdict - Liability and Damages. (krj) (Entered: 02/15/2012)
02/15/2012	568	Exhibit List by Plaintiff Promega Corporation. (Attachments: # 1 Exhibit List, Part 2) (krj) (Entered: 02/15/2012)
02/15/2012	569	Exhibit List by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (krj) (Entered: 02/15/2012)
02/16/2012	570	Court Exhibit List (Sealed Document). (Attachments: # 1 Jury Note) (krj) (Entered: 02/16/2012)

DATE	NO.	PROCEEDINGS
02/16/2012	571	Transcript of 8th Day Jury Trial, held 2/15/2012 before Judge Barbara B. Crabb. Court Reporter: LS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/16/2012)
02/16/2012	572	Transcript of 7th Day Jury Trial, Volume 7B, held 2/14/2012 before Judge Barbara B. Crabb. Court Reporter: CS. Please review the court policy regarding electronic transcripts: see Electronic Transcript Instructions and Notice of Intent to Request Redaction. (llj) (Entered: 02/16/2012)
02/23/2012	573	JUDGMENT in favor of Promega Corporation against Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., and Life Technologies Corporation in the amount of $ 52,009,941.00. (BBC / PAO) (krj) (Entered: 02/23/2012)
03/07/2012	574	Status Report *re: post-trial motions and briefing deadlines* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation (Modl, Michael) Modified on 3/8/2012 (llj). (Entered: 03/07/2012)

DATE	NO.	PROCEEDINGS
03/08/2012	575	** TEXT ONLY ORDER ** The court notes the schedule set forth in 574 re: filing of Rule 50 and 59 motions in this case. Signed by District Judge Barbara B. Crabb on 3/8/2011. (llj) (Entered: 03/08/2012)
03/12/2012	576	Joint Stipulation to Reset Certain Post-Trial Filing Dates by Plaintiff Promega Corporation. (Troupis, Sarah) Modified on 3/13/2012 (llj). (Entered: 03/12/2012)
03/14/2012	577	** TEXT ONLY ORDER ** ORDER approving 576 Joint Stipulation to Reset Certain Post-Trial Filing Dates. Signed by District Judge Barbara B. Crabb on 3/14/2012. (llj) (Entered: 03/14/2012)
03/22/2012	578	MOTION FOR JUDGMENT AS A MATTER OF LAW *On Lost Profits Calculation* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Brief in Opposition due 4/12/2012. Brief in Reply due 4/23/2012. (Johnson, Kristine) (Entered: 03/22/2012)
03/22/2012	579	Brief in Support of 578 Motion for Judgment as a Matter of Law, *Regarding Lost Profits Calculation* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation

DATE	NO.	PROCEEDINGS
		(Johnson, Kristine) (Entered: 03/22/2012)
03/22/2012	580	MOTION FOR JUDGMENT AS A MATTER OF LAW *Regarding 35 USC 271(a) and (f)(1)* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Brief in Opposition due 4/12/2012. Brief in Reply due 4/23/2012. (Johnson, Kristine) (Entered: 03/22/2012)
03/22/2012	581	Brief in Support of 580 Motion for Judgment as a Matter of Law, *Regarding 35 USC 271(a) and (f)(1)* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation (Johnson, Kristine) (Entered: 03/22/2012)
03/22/2012	582	Motion for New Trial *Regarding Allocation of Burden* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (Johnson, Kristine) (Entered: 03/22/2012)
03/22/2012	583	Brief in Support of 582 Motion for New Trial *Regarding Allocation of Burden* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies

DATE	NO.	PROCEEDINGS
		Corporation (Johnson, Kristine) (Entered: 03/22/2012)
03/22/2012	584	Motion for New Trial *Based on Royalties Previously Paid* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (Johnson, Kristine) (Entered: 03/22/2012)
03/22/2012	585	Brief in Support of 584 Motion for New Trial *Based on Royalties Previously Paid* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation (Johnson, Kristine) (Entered: 03/22/2012)
03/22/2012	586	Motion for New Trial *on Aggregate of Errors* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (Johnson, Kristine) (Entered: 03/22/2012)
03/22/2012	587	Brief in Support of 586 Motion for New Trial *Based on Aggregate of Errors* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation (Johnson, Kristine) (Entered: 03/22/2012)
03/22/2012	588	MOTION FOR JUDGMENT AS A MATTER OF LAW *on Non Willfulness* by Defendants Applied

DATE	NO.	PROCEEDINGS
		Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Brief in Opposition due 4/12/2012. Brief in Reply due 4/23/2012. (Johnson, Kristine) (Entered: 03/22/2012)
03/22/2012	589	Brief in Support of 588 Motion for Judgment as a Matter of Law, *on NonWillfulness* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation (Sealed Document) (Johnson, Kristine) (Entered: 03/22/2012)
03/23/2012	590	Motion to Amend Briefing Schedule *on Rule 50 & 59 Motions Consistent with March 14 Order* by Plaintiff Promega Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. Response due 3/30/2012. (Troupis, James) (Entered: 03/23/2012)
03/28/2012	591	** TEXT ONLY ORDER ** ORDER granting 590 Motion to Amend Briefing Schedule. Signed by District Judge Barbara B. Crabb on 3/28/2012. (llj) (Entered: 03/28/2012)
03/28/2012		Set/Reset Briefing Deadlines as to Rule 50 and Rule 59 Motions: Responses due 4/19/2012; Replies

DATE	NO.	PROCEEDINGS
		due 4/30/2012. (llj) (Entered: 03/28/2012)
03/29/2012	592	Motion to Amend Briefing Schedule *to extend reply brief filing date* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. (Johnson, Kristine) Modified on 3/30/2012 (llj). (Entered: 03/29/2012)
04/02/2012	593	Bill of Costs by Plaintiff Promega Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. Objection to Bill of Costs due 4/12/2012. Brief in Support to Bill of Costs due 4/23/2012. Brief in Reply in Opposition to Bill of Costs due 4/27/2012. (Attachments: # 1 Declaration of Sarah E. Troupis in Support of Bill of Costs; see also entry 609, # 2 Fees for Service of Subpoena, # 3 Transcripts Part 1 of 3, # 4 Transcripts Part 2 of 3, # 5 Transcripts Part 3 of 3, # 6 Copying Costs, # 7 Fees of the Clerk) (Troupis, James) Requested attorney file declaration as separate docket entry on 4/3/2012 (jaf). Modified on 4/3/2012 (llj). Modified on 4/4/2012 (jaf). (Entered: 04/02/2012)

DATE	NO.	PROCEEDINGS
04/02/2012	594	Motion for Exceptional Case Finding by Plaintiff Promega Corporation. (Troupis, James) Modified on 4/5/2012 to remove automatic response date set by system (llj). (Entered: 04/02/2012)
04/02/2012	595	Brief in Support of 594 Motion for Exceptional Case Finding by Plaintiff Promega Corporation (Troupis, James) Modified on 4/3/2012 (llj). (Entered: 04/02/2012)
04/02/2012	596	Declaration of Attorney James R. Troupis filed by Plaintiff Promega Corporation re: 594 Motion for Miscellaneous Relief (Sealed Document) (Attachments: # 1 Exhibit A - Breakdown of Overall Fees, # 2 Exhibit B - Attorney Fee Breakdown, # 3 Exhibit C - Disbursement Breakdown, # 4 Exhibit D - Other Fees, # 5 Exhibit E - MBF & TLO Invoices (this Exhibit has been split into 9 files due to its size), # 6 Exhibit E Part 2, # 7 Exhibit E Part 3, # 8 Exhibit E Part 4, # 9 Exhibit E Part 5, # 10 Exhibit E Part 6, # 11 Exhibit E Part 7, # 12 Exhibit E Part 8, # 13 Exhibit E Part 9, # 14 Exhibit F - Husmann Invoices, # 15 Exhibit G - Expert Invoices) (Troupis, James) Modified on 4/3/2012 (jaf). Modified

DATE	NO.	PROCEEDINGS
		on 4/3/2012 (llj). (Entered: 04/02/2012)
04/02/2012	597	Declaration of John S. Skilton filed by Plaintiff Promega Corporation re: 594 Motion for Exceptional Case Finding (Attachments: # 1 Exhibit A - Rates Charged) (Troupis, James) Modified on 4/3/2012 (llj). (Entered: 04/02/2012)
04/02/2012	598	ORDER from Federal Circuit (2011-1263) affirming district court as to 147 Notice of Appeal, filed by Promega Corporation (Attachments: # 1 Notice of Entry of Judgment) (llj) (Entered: 04/02/2012)
04/02/2012	599	Motion for Enhanced Damages by Plaintiff Promega Corporation. (Troupis, James) (Entered: 04/02/2012)
04/02/2012	600	Brief in Support of 599 Motion for Enhanced Damages by Plaintiff Promega Corporation (Troupis, James) (Entered: 04/02/2012)
04/02/2012	601	MOTION FOR PERMANENT INJUNCTION by Plaintiff Promega Corporation. (Troupis, James) (Additional attachment(s) added on 4/2/2012: # 1 Text of Proposed Order) (lak). (Entered: 04/02/2012)

DATE	NO.	PROCEEDINGS
04/02/2012	602	Brief in Support of 601 Motion for Permanent Injunction by Plaintiff Promega Corporation (Troupis, James) (Entered: 04/02/2012)
04/02/2012	603	Declaration of Brandon M. Lewis filed by Plaintiff Promega Corporation re: 594 Motion for Exceptional Case Finding, 599 Motion for Enhanced Damages, 601 Motion for Permanent Injunction. (Attachments: # 1 Exhibit A - Responses to Promega Corporations Second Request for Admission, # 2 Exhibit B - Copies of Selected Correspondence Between Stewart Karge and Kristine Johnson, # 3 Exhibit C - Life Technologies Press Release, # 4 Exhibit D - Life Technologies Corp. Securities and Exchange Commission Form 10-K, Filed 02/29/12, # 5 Exhibit E - Computer Screen Shot Showing MSN Moneys Stock Balance Sheet for Life Technologies Corp., Taken 03/14/2012, # 6 Exhibit F - Computer Screen Shot Showing Life Technologies Financial Highlights, Taken 03/14/2012, # 7 Exhibit G - Select Plaintiff Trial Exhibits) (Troupis, James) Modified on 4/3/2012 (jaf). Modified on 4/3/2012 (llj). (Entered: 04/02/2012)

DATE	NO.	PROCEEDINGS
04/02/2012	604	Proposed Findings of Fact filed by Plaintiff Promega Corporation re: 601 Motion for Permanent Injunction (Troupis, James) (Entered: 04/02/2012)
04/02/2012	605	MOTION and Post Trial Brief *Regarding Defendants' Equitable Defenses* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation (Johnson, Kristine) Modified on 4/3/2012 (llj). (Entered: 04/02/2012)
04/02/2012	606	Proposed Findings of Fact and Conclusions of Law by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 605 Motion re: defendants' equitable defenses. (Johnson, Kristine) Modified on 4/3/2012 (llj). (Entered: 04/02/2012)
04/02/2012	607	Declaration of Kristine E. Johnson filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 605, Motion re: defendants' equitable defenses (Attachments: #1 Exhibit 1 - Civil Docket, # 2 Exhibit 2 - Answer from prior suit, # 3 Exhibit 3 - Excerpts from trial testimony) (Johnson,

DATE	NO.	PROCEEDINGS
		Kristine) Modified on 4/3/2012 (llj). (Entered: 04/02/2012)
04/03/2012	608	** TEXT ONLY ORDER ** ORDER granting 592 Motion to Amend Briefing Schedule. All reply briefs due 5/14/2012. Signed by District Judge Barbara B. Crabb on 4/3/2012. (llj) (Entered: 04/03/2012)
04/03/2012	609	Declaration of Sarah E. Troupis filed by Plaintiff Promega Corporation re: 593 Bill of Costs, (Attachments: #1 Exhibit A-Fees for Service of Subpoena Costs, # 2 Exhibit B-Transcripts Part 1 of 3, # 3 Exhibit B-Transcripts Part 2 of 3, # 4 Exhibit B-Transcripts Part 3 of 3, # 5 Exhibit C-Copying Costs, # 6 Exhibit D-Fees of the Clerk) (Troupis, James) (Entered: 04/03/2012)
04/03/2012		Set/Reset Briefing Deadlines as to 605 Motion re: defendants' equitable defenses. Brief in Opposition due 4/19/2012. Brief in Reply due 5/14/2012. (llj) (Entered: 04/03/2012)
04/05/2012		Set/Reset Briefing Deadlines as to 594 Motion for Exceptional Case Finding. Briefing to follow schedule set for all motions: Response due 4/19/2012; Reply due 5/14/2012. (llj) (Entered: 04/05/2012)

DATE	NO.	PROCEEDINGS
04/05/2012		Set/Reset Briefing Deadlines as to 599 Motion for Enhanced Damages. Brief in Opposition due 4/19/2012. Brief in Reply due 5/14/2012. (llj) (Entered: 04/05/2012)
04/06/2012		Set/Reset Briefing Deadlines as to 601 MOTION FOR PERMANENT INJUNCTION. Brief in Opposition due 4/19/2012. Brief in Reply due 5/14/2012. (llj/BBC) (Entered: 04/06/2012)
04/09/2012	610	Motion for Extension of Time *for Opposition Memoranda* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. Response due 4/16/2012. (Johnson, Kristine) (Entered: 04/09/2012)
04/10/2012	611	** TEXT ONLY ORDER ** ORDER granting 610 Motion for Extension of Time. No further extensions will be granted. Signed by District Judge Barbara B. Crabb on 4/10/2012. (llj) (Entered: 04/10/2012)
04/10/2012		Set/Reset Briefing Deadlines as to 601 MOTION FOR PERMANENT INJUNCTION, 594 Motion for Exceptional Case Finding, 599 Motion for Enhanced Damages.

DATE	NO.	PROCEEDINGS
		Brief in Opposition due 5/10/2012. Brief in Reply due 5/21/2012. (llj) (Entered: 04/10/2012)
04/12/2012	612	Objection to Bill of Costs by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 593 Bill of Costs filed by Promega Corporation (Attachments: # 1 Exhibit A - Chart of Specific Objections) (Modl, Michael) Modified on 4/13/2012 (llj). (Entered: 04/12/2012)
04/18/2012	613	Notice of Withdrawal of Counsel re: Defendant Life Technologies Corporation (*Amy Sun*) (Clarkowski, Andrew) (Entered: 04/18/2012)
04/18/2012	614	Motion to Admit Katherine M. Nolan-Stevaux Pro Hac Vice. (Pro Hac Vice fee $ 50 receipt number 0758-968729.) by Counter Claimants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation, Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. (Nolan-Stevaux, Katherine) (Entered: 04/18/2012)

DATE	NO.	PROCEEDINGS
04/19/2012	615	** TEXT ONLY ORDER ** ORDER granting 614 Motion to Admit Katherine Nolan-Stevaux Pro Hac Vice. Signed by Magistrate Judge Peter A. Oppeneer on 4/19/2012. (llj) (Entered: 04/19/2012)
04/19/2012	616	Brief in Opposition by Plaintiff Promega Corporation re: 580 Motion for Judgment as a Matter of Law *Regarding 35 USC 271(a) and (f)(1)*, filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc. (Troupis, Sarah) Modified on 4/20/2012 (llj). (Entered: 04/19/2012)
04/19/2012	617	Brief in Opposition by Plaintiff Promega Corporation re: 582 Motion for New Trial *Regarding Allocation of Burden* filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc. (Troupis, Sarah) Modified on 4/20/2012 (llj). (Entered: 04/19/2012)
04/19/2012	618	Brief in Opposition by Plaintiff Promega Corporation re: 584 Motion for New Trial *Based on Royalties Previously Paid* filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc. (Troupis, Sarah) Modified on 4/20/2012 (llj). (Entered: 04/19/2012)

DATE	NO.	PROCEEDINGS
04/19/2012	619	Brief in Opposition by Plaintiff Promega Corporation re: 586 Motion for New Trial *on Aggregate of Errors* filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc. (Troupis, Sarah) Modified on 4/20/2012 (llj). (Entered: 04/19/2012)
04/19/2012	620	Brief in Opposition by Plaintiff Promega Corporation re: 605 Motion *Regarding Defendants' Equitable Defenses* filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc. (Troupis, Sarah) Modified on 4/20/2012 (llj). (Entered: 04/19/2012)
04/19/2012	621	Response to Proposed Findings of Fact and Conclusions of Law by Plaintiff Promega Corporation re: 605 Motion *Regarding Defendants' Equitable Defenses* filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc. (Troupis, Sarah) Modified on 4/20/2012 (llj). (Entered: 04/19/2012)
04/19/2012	622	Brief in Opposition by Plaintiff Promega Corporation re: 578 Motion for Judgment as a Matter of Law *On Lost Profits Calculation*, filed by Applied Biosystems, LLC, Life Technologies Corporation,

DATE	NO.	PROCEEDINGS
		Invitrogen IP Holdings, Inc. (Troupis, Sarah) Modified on 4/20/2012 (llj). (Entered: 04/19/2012)
04/19/2012	623	Brief in Opposition by Plaintiff Promega Corporation re: 588 Motion for Judgment as a Matter of Law *on Non Willfulness*, filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc. (Troupis, Sarah) Modified on 4/20/2012 (llj). (Entered: 04/19/2012)
04/19/2012	624	Declaration of Brandon Lewis filed by Plaintiff Promega Corporation re: 588 Motion for Judgment as a Matter of Law, 586 Motion for New Trial, 578, Motion for Judgment as a Matter of Law, 580, Motion for Judgment as a Matter of Law, 582 Motion for New Trial, 584 Motion for New Trial (Attachments: # 1 Exhibit A - Defendant's Initial Rule 26 Disclosures, # 2 Exhibit B - Defendants' Supplemental Rule 26 Disclosures, # 3. Exhibit C - Select Plaintiff's Trial Exhibits) (Troupis, Sarah) (Entered: 04/19/2012)
04/23/2012	625	Brief in Support by Plaintiff Promega Corporation re: 593 Bill of Costs filed by Promega Corporation (Attachments: # 1 Exhibit A -

DATE	NO.	PROCEEDINGS
		Responses to Defendants' Specific Objections) (Troupis, Sarah) Modified on 4/25/2012 (llj). (Entered: 04/23/2012)
04/23/2012	626	Declaration of Sarah E. Troupis filed by Plaintiff Promega Corporation re: 593 Bill of Costs, (Troupis, Sarah) (Entered: 04/23/2012)
04/27/2012	627	Brief in Reply in Opposition to Bill of Costs by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 593 Bill of Costs filed by Promega Corporation (Attachments: # 1 Exhibit A - Spreadsheet Itemizing Objections) (Modl, Michael) Modified on 4/30/2012 (llj). (Entered: 04/27/2012)
05/10/2012	628	Brief in Opposition by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 594 Motion for Exceptional Case Finding filed by Promega Corporation, 599 Motion for Enhanced Damages filed by Promega Corporation (Sealed Document) (Johnson, Kristine) Modified on 5/11/2012 (llj). (Entered: 05/10/2012)
05/10/2012	629	Brief in Opposition by Defendants Applied Biosystems, LLC,

DATE	NO.	PROCEEDINGS
		Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction filed by Promega Corporation (Sealed Document) (Attachments: # 1 Exhibit 1- Proposed Form of Injunction) (Johnson, Kristine) (Entered: 05/10/2012)
05/10/2012	630	Response to Proposed Findings of Fact filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Johnson, Kristine) (Entered: 05/10/2012)
05/10/2012	631	Statement of Facts by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Johnson, Kristine) Modified on 5/11/2012 (llj). (Entered: 05/10/2012)
05/10/2012	632	Declaration of Kristine E. Johnson filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 594 Motion for Exceptional Case Finding, 599 Motion for Enhanced Damages, 601 Motion for Permanent Injunction (Sealed Document) (Attachments:

DATE	NO.	PROCEEDINGS
		#1 Exhibit A - Responses to Requests for Admission and Production, # 2 Exhibit B - Objections and Responses to Interrogatories, # 3 Exhibit C - Letter Johnson to Karge, # 4 Exhibit D - Letter Johnson to Karge, # 5 Exhibit E - Responses to Requests for Admission, # 6 Exhibit F - PTX0933, # 7 Exhibit G - Qiagen Website, # 8 Exhibit H - Biotype Website, # 9 Exhibit I- 1996 Agreement, # 10 Exhibit J - Promega Responses to Interrogatories, # 11 Exhibit K - Dimond Depo. Excerpts, # 12 Exhibit L - Promega letters) (Johnson, Kristine) Modified on 5/11/2012 (jaf). Modified on 5/11/2012 (llj). (Entered: 05/10/2012)
05/10/2012	633	Declaration of Thomas Mueller filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Johnson, Kristine) Modified on 5/11/2012 (llj). (Entered: 05/10/2012)
05/10/2012	634	Declaration of Margaret Wallace filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies

DATE	NO.	PROCEEDINGS
		Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Johnson, Kristine) Modified on 5/11/2012 (llj). (Entered: 05/10/2012)
05/10/2012	635	Declaration of Elaine Lyon filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Johnson, Kristine) (Entered: 05/10/2012)
05/10/2012	636	Declaration of Heather Miller Coyle filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Johnson, Kristine) Modified on 5/11/2012 (llj). (Entered: 05/10/2012)
05/10/2012	637	Declaration of Robin Cotton filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Johnson, Kristine) (Entered: 05/10/2012)
05/10/2012	638	Declaration of Leonard Klevan filed by Defendants Applied Biosystems,

DATE	NO.	PROCEEDINGS
		LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Johnson, Kristine) Modified on 5/11/2012 (llj). (Entered: 05/10/2012)
05/10/2012	639	Declaration of Arthur Eisenberg filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Johnson, Kristine) (Entered: 05/10/2012)
05/10/2012	640	Declaration of Tracey Dawson Cruz filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Johnson, Kristine) Modified on 5/11/2012 (llj). (Entered: 05/10/2012)
05/10/2012	641	Declaration of Anton Kovac filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Johnson, Kristine) (Entered: 05/10/2012)

DATE	NO.	PROCEEDINGS
05/10/2012	642	Declaration of Ain Langel filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Johnson, Kristine) Modified on 5/11/2012 (llj). (Entered: 05/10/2012)
05/10/2012	643	Declaration of Yasmin Verjee filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Johnson, Kristine) (Entered: 05/10/2012)
05/14/2012	644	Brief in Reply by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation in Support of 578 Motion for Judgment as a Matter of Law *on Lost Profits Calculation* (Johnson, Kristine) Modified on 5/15/2012 (llj). (Entered: 05/14/2012)
05/14/2012	645	Brief in Reply by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation in Support of 586, Motion for New Trial *Based on Aggregate of Errors* (Johnson, Kristine) (Entered: 05/14/2012)

DATE	NO.	PROCEEDINGS
05/14/2012	646	Brief in Reply by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation in Support of 582 Motion for New Trial *Regarding Quantum of Unauthorized Sales* (Johnson, Kristine) (Entered: 05/14/2012)
05/14/2012	647	Brief in Reply by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation in Support of 580 Motion for Judgment as a Matter of Law *Regarding 35 USC 271(f)(1) and (a)* (Johnson, Kristine) Modified on 5/15/2012 (llj). (Entered: 05/14/2012)
05/14/2012	648	Brief in Reply by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation in Support of 605 Motion for Miscellaneous Relief *on Equitable Defenses* (Johnson, Kristine) (Entered: 05/14/2012)
05/14/2012	649	Brief in Reply by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation in Support of 584 Motion for New Trial *Regarding Royalties Previously Paid* (Johnson, Kristine) (Entered: 05/14/2012)

DATE	NO.	PROCEEDINGS
05/14/2012	650	Brief in Reply by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation in Support of 588 Motion for Judgment as a Matter of Law *Regarding Non-Willfulness* (Sealed Document) (Johnson, Kristine) Modified on 5/15/2012 (llj). (Entered: 05/14/2012)
05/15/2012	651	Redacted Brief in Opposition by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 594 Motion for Exceptional Case Finding filed by Promega Corporation, 599 Motion for Enhanced Damages filed by Promega Corporation (Johnson, Kristine) Modified on 5/16/2012 (llj). (Entered: 05/15/2012)
05/15/2012	652	Redacted Brief in Opposition by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction filed by Promega Corporation (Johnson, Kristine) (Entered: 05/15/2012)
05/15/2012	653	Redacted Proposed Findings of Fact filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies

DATE	NO.	PROCEEDINGS
		Corporation re: 601 Motion for Permanent Injunction (Johnson, Kristine) (Entered: 05/15/2012)
05/15/2012	654	Redacted Brief in Reply by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation in Support of 588 Motion for Judgment as a Matter of Law, (Johnson, Kristine) (Entered: 05/15/2012)
05/15/2012	655	Redacted Declaration of A.E. filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Johnson, Kristine) (Entered: 05/15/2012)
05/15/2012	656	Redacted Declaration of T.D. filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Johnson, Kristine) (Entered: 05/15/2012)
05/15/2012	657	Redacted Declaration of T.M. filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Johnson, Kristine) (Entered: 05/15/2012)

DATE	NO.	PROCEEDINGS
05/15/2012	658	Redacted Declaration of M.W. filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Johnson, Kristine) (Entered: 05/15/2012)
05/15/2012	659	Redacted Declaration of R.C. filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Johnson, Kristine) (Entered: 05/15/2012)
05/15/2012	660	Redacted Declaration of A.L. filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Johnson, Kristine) (Entered: 05/15/2012)
05/15/2012	661	Redacted Declaration of E.L. filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Johnson, Kristine) (Entered: 05/15/2012)
05/15/2012	662	Redacted Declaration of H.C. filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re:

DATE	NO.	PROCEEDINGS
		601 Motion for Permanent Injunction (Johnson, Kristine) (Entered: 05/15/2012)
05/15/2012	663	Redacted Declaration of A.K. filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Johnson, Kristine) (Entered: 05/15/2012)
05/15/2012	664	Redacted Declaration of Y.J. filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 601 Motion for Permanent Injunction (Johnson, Kristine) (Entered: 05/15/2012)
05/21/2012	665	MANDATE issued by Federal Circuit affirming district court as to 147 Notice of Appeal, filed by Promega Corporation. No record to be returned. (Attachments: # 1 Bill of Costs) (llj) (Entered: 05/21/2012)
05/21/2012	666	Brief in Reply by Plaintiff Promega Corporation in Support of 594 Motion for Exceptional Case Finding. (Troupis, Sarah) Modified on 5/22/2012 (llj). (Entered: 05/21/2012)
05/21/2012	667	Second Declaration of James R. Troupis filed by Plaintiff Promega Corporation re: 594 Motion for

DATE	NO.	PROCEEDINGS
		Exceptional Case Finding (Sealed Document) (Attachments: # 1 Exhibit A - Overall Fee Breakdown, # 2 Exhibit B - Attorney Fee Breakdown, # 3 Exhibit C - Disbursement Breakdown, # 4 Exhibit D - Other Fee Breakdown, # 5 Exhibit E - Troupis Law Office Invoices, # 6 Exhibit F - Husmann Invoice, # 7 Exhibit G - Misc. Invoices) (Troupis, Sarah) Modified on 5/22/2012 (llj). (Entered: 05/21/2012)
05/21/2012	668	Redacted 667 Second Declaration of James R. Troupis filed by Plaintiff Promega Corporation re: 594 Motion for Exceptional Case Finding (Attachments: # 1 Exhibit A - Overall Fee Breakdown, # 2 Exhibit B - Attorney Fee Breakdown, # 3 Exhibit C - Disbursement Breakdown, # 4 Exhibit D - Other Fee Breakdown, # 5 Exhibit E - Troupis Law Office Invoices, # 6 Exhibit F - Husmann Invoice, # 7 Exhibit G - Misc. Invoices) (Troupis, Sarah) Modified on 5/22/2012 (llj). Modified on 6/21/2012 (llj). (Entered: 05/21/2012)
05/21/2012	669	Brief in Reply by Plaintiff Promega Corporation in Support of 599 Motion for Enhanced Damages

DATE	NO.	PROCEEDINGS
		(Troupis, Sarah) (Entered: 05/21/2012)
05/21/2012	670	Brief in Reply by Plaintiff Promega Corporation in Support of 601 Motion for Permanent Injunction (Sealed Document) (Troupis, Sarah) (Entered: 05/21/2012)
05/21/2012	671	Response to Defendants' Proposed Findings of Fact filed by Plaintiff Promega Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Troupis, Sarah) Modified on 5/22/2012 (llj). (Entered: 05/21/2012)
05/21/2012	672	Reply in Support of Proposed Findings of Fact filed by Plaintiff Promega Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Troupis, Sarah) (Entered: 05/21/2012)
05/21/2012	673	Declaration of Brandon Lewis filed by Plaintiff Promega Corporation re: 594 Motion for Exceptional Case Finding, 599 Motion for Enhanced Damages, 601 Motion for Permanent Injunction (Sealed Document) (Attachments: # 1 Exhibit A - Select Plaintiff's Trial Exhibits, # 2 Exhibit B - May 13, 2012 Screenshot, # 3 Exhibit C - Doug Storts Email, # 4 Exhibit D - FBI Quality Assurance Standards,

DATE	NO.	PROCEEDINGS
		# 5 Exhibit E - AB Autosomal Locus Guide, # 6 Exhibit F - Chart of Promega PowerPlex STR Systems, # 7 Exhibit G - FEPAC Accredidation Standards, # 8 Exhibit H - 7/20/2011 Email, # 9 Exhibit I - Defendants' Objections to Rule 30(b)(6) Notice) (Troupis, Sarah) Modified on 5/22/2012 (llj). (Entered: 05/21/2012)
05/21/2012	674	Declaration of Jack Ballantyne filed by Plaintiff Promega Corporation re: 601 Motion for Permanent Injunction (Troupis, Sarah) Unsealed per dkt. 779 on 7/11/2013 (rep). (Entered: 05/21/2012)
05/21/2012	675	Declaration of Margaret Ewing filed by Plaintiff Promega Corporation re: 601 Motion for Permanent Injunction (Troupis, Sarah) Unsealed per dkt. 779 on 7/11/2013 (rep). (Entered: 05/21/2012)
05/21/2012	676	Declaration of Kathleen Murphy filed by Plaintiff Promega Corporation re: 601 Motion for Permanent Injunction (Troupis, Sarah) Unsealed per dkt. 779 on 7/11/2013 (rep). (Entered: 05/21/2012)

DATE	NO.	PROCEEDINGS
05/21/2012	677	Declaration of Randall Dimond filed by Plaintiff Promega Corporation re: 601 Motion for Permanent Injunction (Sealed Document) (Troupis, Sarah) (Entered: 05/21/2012)
05/24/2012	678	Redacted 670 Brief in Reply in Support of 601 Motion for Permanent Injunction by Plaintiff Promega Corporation (Troupis, Sarah) Modified on 6/21/2012 (llj). (Entered: 05/24/2012)
05/24/2012	679	Redacted 671 Response to Defendants' Proposed Findings of Fact re: 601 Motion for Permanent Injunction by Plaintiff Promega Corporation (Troupis, Sarah) Modified on 6/21/2012 (llj). (Entered: 05/24/2012)
05/24/2012	680	Redacted 673 Declaration of Brandon M. Lewis re: 594 Motion for Exceptional Case Finding, 599 Motion for Enhanced Damages, 601 Motion for Permanent Injunction by Plaintiff Promega Corporation (Attachments: # 1 Exhibit A - Select Plaintiff's Trial Exhibits, # 2 Exhibit B - May 13, 2012 Screenshot, # 3 Exhibit C - Doug Storts Email, # 4 Exhibit D - FBI Quality Assurance Standards, # 5 Exhibit E - AB Autosomal Locus Guide, # 6 Exhibit F - Chart of

DATE	NO.	PROCEEDINGS
		Promega PowerPlex STR Systems, # 7 Exhibit G - FEPAC Accredidation Standards, # 8 Exhibit H - 7/20/2011 Email, # 9 Exhibit I - Defendants' Objections to Rule 30(b)(6) Notice) (Troupis, Sarah) Modified on 6/21/2012 (llj). (Entered: 05/24/2012)
06/08/2012	681	Notice of Supplemental Authority by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 593 Bill of Costs. (Attachments: # 1 Exhibit A - Opinion in Taniguchi v. Kan Pacific Saipan, Ltd.) (Modl, Michael) Modified on 6/11/2012 (jaf). Modified on 6/12/2012 (llj). (Entered: 06/08/2012)
06/18/2012	682	Notice of Supplemental Authority by Plaintiff Promega Corporation. (Attachments: # 1 Exhibit A - Cited Case - Bard v. W.L. Gore) (Troupis, Sarah) Modified on 6/19/2012 (jaf). (Entered: 06/18/2012)
06/20/2012	683	Clarification re: 682 Notice of Supplemental Authority by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (Johnson, Kristine) Modified on 6/21/2012 (jaf). (Entered: 06/20/2012)

DATE	NO.	PROCEEDINGS
09/13/2012	684	ORDER ruling on pending post trial motions; dismissing the equitable defenses and counterclaims filed by defendants for failure to prove; granting 580 defendants' motion for judgment as a matter of law; denying as moot the remaining motions, including 593 plaintiff's bill of costs. Signed by District Judge Barbara B. Crabb on 9/12/2012. (llj) (Entered: 09/13/2012)
09/18/2012	685	AMENDED JUDGMENT entered. (BBC/PAO) Signed by Clerk of Court Peter Oppeneer on 9/18/2012. (llj) (Entered: 09/18/2012)
09/27/2012	686	NOTICE OF APPEAL - FEDERAL CIRCUIT by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Filing fee of $ 455, receipt number 0758-1055811 paid. (Modl, Michael) (Entered: 09/27/2012)
09/28/2012	687	Transmission of Notice of Appeal, Appeal Information Sheet, Docket Sheet and Judgment to Federal Circuit Court of Appeals re 686 Notice of Appeal (Attachments: # 1 Info Sheet, # 2 Judgment, # 3 #345 Order, # 4 #486 Order, # 5 #498 Order, # 6 #517 Oral order in

DATE	NO.	PROCEEDINGS
		transcipt [sic], # 7 Docket sheet) (mmo) (Entered: 09/28/2012)
10/09/2012	688	Transcript Request Form by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation (Johnson, Kristine) Modified on 10/10/2012; signed by crt. reporter and forwarded to Fed. Cir. (mmo). (Entered: 10/09/2012)
10/15/2012	689	Federal Circuit Case Number 2013-1011 for 686 Notice of Appeal filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc. (llj) (Entered: 10/15/2012)
10/15/2012	690	Motion to Set Aside Judgment *with Respect to Infringement, Permanent Injunction, and Exceptional Case Finding or, in the Alternative, for a New Trial* by Plaintiff Promega Corporation. (Troupis, Sarah) Modified on 10/17/2012 (llj). (Entered: 10/15/2012)
10/15/2012	691	Brief in Support of 690 Motion to Set Aside Judgment *with Respect to Infringement, Permanent Injunction, and Exceptional Case Finding or, in the Alternative, for a New Trial* by Plaintiff Promega Corporation (Sealed Document) (Troupis, Sarah)

DATE	NO.	PROCEEDINGS
		Modified on 10/17/2012 (llj). (Entered: 10/15/2012)
10/15/2012	692	Redacted Brief in Support of 690 Motion to Set Aside Judgment *with Respect to Infringement, Permanent Injunction, and Exceptional Case Finding or, in the Alternative, for a New Trial* by Plaintiff Promega Corporation (Troupis, Sarah) Modified on 10/17/2012 (llj). (Entered: 10/15/2012)
10/15/2012	693	Motion to Set Aside Judgment *with Respect to Damages or, in the Alternative, for a New Trial* by Plaintiff Promega Corporation. (Troupis, Sarah) Modified on 10/17/2012 (llj). (Entered: 10/15/2012)
10/15/2012	694	Brief in Support of 693 Motion to Set Aside Judgment *with Respect to Damages or, in the Alternative, for a New Trial* by Plaintiff Promega Corporation (Sealed Document) (Troupis, Sarah) Modified on 10/17/2012 (llj). (Entered: 10/15/2012)
10/15/2012	695	Redacted Brief in Support of 693 Motion to Set Aside Judgment *with Respect to Damages or, in the Alternative, for a New Trial* by Plaintiff Promega Corporation (Troupis, Sarah) Modified on

DATE	NO.	PROCEEDINGS
		10/17/2012 (llj). (Entered: 10/15/2012)
10/15/2012	696	Disregard; refiled as entry 702. Declaration of Brandon Lewis filed by Plaintiff Promega Corporation. (Attachments: # 1 Exhibit A - Select Trial Exhibits) (Troupis, Sarah) Requested attorney refile with exhibits attached and described separately on 10/16/2012 (jaf). Modified on 10/17/2012 (llj). (Entered: 10/15/2012)
10/15/2012	697	Motion for Oral Argument re: 690 and 693 Motions to Set Aside Judgment by Plaintiff Promega Corporation. (Troupis, Sarah) Modified on 10/16/2012 (jaf). Modified event relationship and deleted response deadline on 10/17/2012 (llj). (Entered: 10/15/2012)
10/15/2012	698	Motion to Correct a Typographical Error re 684 Order, by Plaintiff Promega Corporation. (Troupis, Sarah) Modified on 10/16/2012 (jaf). Modified entry and deleted response deadline on 10/17/2012 (llj). (Entered: 10/15/2012)
10/16/2012	699	Motion to Admit Seth P. Waxman Pro Hac Vice (Pro Hac Vice fee $50 receipt number 0758-1067379) by Plaintiff Promega Corporation.

DATE	NO.	PROCEEDINGS
		Motions referred to Magistrate Judge Peter A. Oppeneer. (Waxman, Seth) Modified on 10/17/2012 (llj). (Entered: 10/16/2012)
10/16/2012	700	Motion to Admit Mark C. Fleming Pro Hac Vice (Pro Hac Vice fee $50 receipt number 0758-1067380) by Plaintiff Promega Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. (Fleming, Mark) Modified on 10/17/2012 (llj). (Entered: 10/16/2012)
10/16/2012	701	Motion to Admit Thomas G. Saunders Pro Hac Vice (Pro Hac Vice fee $50 receipt number 0758-1067381) by Plaintiff Promega Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. (Saunders, Thomas) Modified on 10/17/2012 (llj). (Entered: 10/16/2012)
10/16/2012	702	Declaration of Brandon Lewis filed by Plaintiff Promega Corporation re: 693 Motion to Set Aside Judgment re: Damages, 690 Motion to Set Aside Judgment, (Sealed Document) (Attachments: # 1 Exhibit A - Email from Dave Oehler to Robert Rossi on 07/13/2010 - re: A: Quote request for Identifiler Plus at 30% off list TRIAL QUOTE, # 2 Exhibit B - List of Account Chart for

DATE	NO.	PROCEEDINGS
		Years 2002-2007, # 3 Exhibit C - List of Account Chart for Years 2006-2008, # 4 Exhibit D - Spreadsheet for Fiscal Year 2000-2009, # 5 Exhibit E - Spreadsheet, Non-Forensic Accounts, # 6 Exhibit F - Summary Royalty Report for Promega Corporation for Quarter Ending 09/30/06, # 7 Exhibit G - Summary Royalty Report for Promega Corporation for Quarter Ending 12/31/06, # 8 Exhibit H - Summary Royalty Report for Promega Corporation for Quarter Ending 03/31/07, # 9 Exhibit I - Summary Royalty Report for Promega Corporation for Quarter Ending 06/30/07, # 10 Exhibit J - Summary Royalty Report for Promega Corporation for Quarter Ending 09/30/07, # 11 Exhibit K - Summary Royalty Report for Promega Corporation for Quarter Ending 12/31/07, # 12 Exhibit L - Summary Royalty Report for Promega Corporation for Quarter Ending 03/31/08, # 13 Exhibit M - Summary Royalty Report for Promega Corporation for Quarter Ending 12/31/07, # 14 Exhibit N - Summary Royalty Report for Promega Corporation for Quarter Ending 12/31/08, # 15 Exhibit O - Summary Royalty Report for

DATE	NO.	PROCEEDINGS
		Promega Corporation for Quarter Ending 03/31/09, # 16 Exhibit P - Summary Royalty Report for Promega Corporation for Quarter Ending 06/30/09, #17 Exhibit Q - Summary Royalty Report for Promega Corporation for Quarter Ending 09/30/09, # 18 Exhibit R - Summary Royalty Report for Promega Corporation for Quarter Ending 06/30/10, # 19 Exhibit S - Summary Royalty Report for Promega Corporation for Quarter Ending 12/31/09, # 20 Exhibit T - Summary Royalty Report for Promega Corporation for Quarter Ending 12/31/10, # 21 Exhibit U - Summary Royalty Report for Promega Corporation for Quarter Ending 03/31/11, # 22 Exhibit V - Summary Royalty Report for Promega Corporation for Quarter Ending 06/30/11, # 23 Exhibit W - Placeholder for Spreadsheet produced by Defendants titled LIFE-0591808.xls) (Lewis, Brandon) Modified on 10/17/2012 (llj). (Entered: 10/16/2012)
10/16/2012	703	NOTICE OF APPEAL - FEDERAL CIRCUIT by Plaintiff Promega Corporation as to 684 Order on Motion for Judgment as a Matter of Law, Order on Motion for New Trial, Order Taxing Costs, Order on

DATE	NO.	PROCEEDINGS
		Motion for Miscellaneous Relief, Order on Motion for Enhanced Damages, Order on Motion for Permanent Injunction, 498 Order on Motion in Limine, Order on Motion to Strike, Order on Motion for Leave to File, 685 Judgment. Filing fee of $455, receipt number 0758-1068184 paid. (Troupis, Sarah) Modified on 10/17/2012 (llj). (Entered: 10/16/2012)
10/17/2012		Set/Reset Briefing Deadlines as to 690 Motion to Set Aside Judgment, 693 Motion to Set Aside Judgment re: Damages. Brief in Opposition due 11/6/2012. Brief in Reply due 11/21/2012. (llj) (Entered: 10/17/2012)
10/17/2012	704	** TEXT ONLY ORDER ** ORDER granting 699 , 700 and 701 Motions to Admit Pro Hac Vice. Signed by Magistrate Judge Peter A. Oppeneer on 10/17/2012. (llj) (Entered: 10/17/2012)
10/17/2012	705	Transmission of Notice of Appeal, Appeal Information Sheet, Docket Sheet and Judgment to Federal Circuit Court of Appeals re 703 Notice of Appeal, (Attachments: # 1 Info sheet, # 2 Order, # 3 Order, # 4 Amended judgmt, # 5 Docket sheet) (mmo) (Entered: 10/17/2012)

DATE	NO.	PROCEEDINGS
10/18/2012	706	Motion to Admit Edward Robert Reines Pro Hac Vice (Pro Hac Vice fee $50 receipt number 0758-1069740) by Counter Claimants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation, Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. (Reines, Edward) Modified on 10/19/2012 (llj). (Entered: 10/18/2012)
10/18/2012	707	Motion to Admit Timothy Chen Saulsbury Pro Hac Vice (Pro Hac Vice fee $50 receipt number 0758-1069745) by Counter Claimants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation, Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. (Saulsbury, Timothy) Modified on 10/19/2012 (llj). (Entered: 10/18/2012)
10/19/2012	708	** TEXT ONLY ORDER ** ORDER granting 706 and 707 Motions to Admit Edward Robert Reines and Timothy Chen Saulsbury Pro Hac Vice. Signed by Magistrate Judge

DATE	NO.	PROCEEDINGS
		Peter A. Oppeneer on 10/19/2012. (llj) (Entered: 10/19/2012)
10/23/2012	709	** TEXT ONLY ORDER ** The court will make a decision re: 697 Motion for Oral Argument when briefing on the related motions is complete. Signed by District Judge Barbara B. Crabb on 10/23/2012. (llj) (Entered: 10/23/2012)
10/23/2012	710	** TEXT ONLY ORDER ** ORDER granting 698 Motion to Amend/Correct. Order 684 entered September 13, 2012, is AMENDED by transposing the terms "defendants" and "plaintiff' in the last sentence of the first full paragraph on page 9. In all other respects, the order remains as entered. Signed by District Judge Barbara B. Crabb on 10/23/2012. (llj) (Entered: 10/23/2012)
10/25/2012	711	Unopposed Motion for Extension of Time re: 690 Motion and 693 Motion by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. (Johnson, Kristine) Modified on 10/31/2012 (llj). (Entered: 10/25/2012)

DATE	NO.	PROCEEDINGS
10/29/2012	712	** TEXT ONLY ORDER ** ORDER granting 711 Motion for Extension of Time. Brief in Opposition due 11/27/2012. Brief in Reply due 12/12/2012. Signed by Magistrate Judge Peter A. Oppeneer on 10/29/2012. (voc) (Entered: 10/29/2012)
11/14/2012	713	ORDER from Federal Circuit deactivating appeals as to 703 Notice of Appeal (13-1029) filed by Promega Corporation, 686 Notice of Appeal (13-1011) filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc., pending entry of an order by the District Court on the outstanding post-judgment motions, (Attachments: # 1 Notice) (llj) (Entered: 11/14/2012)
11/26/2012	714	Motion to Admit Carter Glasgow Phillips Pro Hac Vice (Pro Hac Vice fee $50 receipt number 0758-1087726) by Defendants Applied Biosystems, LLC, Life Technologies Corporation, Counter Claimant Invitrogen IP Holdings, Inc. Motions referred to Magistrate Judge Peter A. Oppeneer. (Phillips, Carter) Modified on 11/27/2012 (llj). (Entered: 11/26/2012)
11/27/2012	715	** TEXT ONLY ORDER ** ORDER granting 714 Motion to Admit

DATE	NO.	PROCEEDINGS
		Carter Glasgow Phillips Pro Hac Vice. Signed by Magistrate Judge Peter A. Oppeneer on 11/27/2012. (llj) (Entered: 11/27/2012)
11/27/2012	716	Brief in Opposition by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 690 Motion to Set Aside Judgment (Infringement, Permanent Injunction, Exceptional Case) filed by Promega Corporation. (Reines, Edward) Modified on 11/28/2012 (llj). (Entered: 11/27/2012)
11/27/2012	717	Brief in Opposition by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 693 Motion to Set Aside Judgment (Damages) filed by Promega Corporation. (Reines, Edward) Modified on 11/28/2012 (llj). (Entered: 11/27/2012)
12/06/2012	718	Motion for Extension of Time *To File Post-Judgment Reply Briefs* by Plaintiff Promega Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. (Saunders, Thomas) (Entered: 12/06/2012)
12/06/2012	719	** TEXT ONLY ORDER ** ORDER granting 718 Motion for Extension

DATE	NO.	PROCEEDINGS
		of Time. Brief in Reply due 12/19/2012. Signed by Magistrate Judge Peter A. Oppeneer on 12/6/12. (rep) (Entered: 12/06/2012)
12/14/2012	720	Motion to Admit Susan Rebecca Podolsky Pro Hac Vice (Pro Hac Vice fee $50 receipt number 0758-1097842) by Counter Defendant Promega Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. (Podolsky, Susan) Modified on 12/17/2012 (llj). (Entered: 12/14/2012)
12/17/2012	721	Motion to Withdraw as Attorney for Plaintiff Promega Corporation. Response due 12/24/2012. (Troupis, James) Modified on 12/18/2012 (llj). (Entered: 12/17/2012)
12/17/2012	722	** TEXT ONLY ORDER ** ORDER granting 720, Motion to Admit Susan Rebecca Podolsky Pro Hac Vice. Signed by Magistrate Judge Peter A. Oppeneer on 12/17/2012. (llj) (Entered: 12/17/2012)
12/17/2012	723	** TEXT ONLY ORDER ** ORDER approving 721 Motion to Withdraw as Attorney by James R. Troupis. Signed by Magistrate Judge Peter A. Oppeneer on 12/17/2012. (llj) (Entered: 12/17/2012)
12/19/2012	724	Notice of Change of Address for Peter G. Carroll. (Lewis, Brandon)

DATE	NO.	PROCEEDINGS
		Modified on 12/27/2012 (llj). (Entered: 12/19/2012)
12/19/2012	725	Brief in Reply by Plaintiff Promega Corporation in Support of 690 Motion to Set Aside Judgment *with Respect to Infringement* (Sealed Document) (Waxman, Seth) (Entered: 12/19/2012)
12/19/2012	726	Brief in Reply by Plaintiff Promega Corporation in Support of 693 Motion to Set Aside Judgment *with Respect to Damages* (Sealed Document) (Waxman, Seth) (Entered: 12/19/2012)
12/19/2012	727	Motion for Relief from Judgment *Based on Newly Discovered Evidence and for a New Trial* by Plaintiff Promega Corporation. (Waxman, Seth) (Entered: 12/19/2012)
12/19/2012	728	Brief in Support of 727 Motion for Relief from Judgment *Based on Newly Discovered Evidence and for a New Trial* by Plaintiff Promega Corporation (Sealed Document) (Waxman, Seth) (Entered: 12/19/2012)
12/19/2012	729	Declaration of Stewart W. Karge filed by Plaintiff Promega Corporation re: 727 Motion for Relief from Judgment (Sealed Document) (Attachments: # 1 Exhibit A - LT

DATE	NO.	PROCEEDINGS
		Resp. to Promega 2d RFP, # 2 Exhibit B - LT Resp. to Promega 3d RFP, # 3 Exhibit C - October 17, 2011 Letter, # 4 Exhibit D - October 18, 2011 Letter, # 5 Exhibit E - October 19, 2011 Letter, # 6 Exhibit F-1 - Promega 2d Doc Requests to IIPH (ARB), # 7 Exhibit F-2 - IIPH Resp. to Promega 2d RFP (ARB), # 8 Exhibit G-1 - 2006 BOD Spreadsheet, # 9 Exhibit G-2 - 2007 BOD Spreadsheet, # 10 Exhibit G-3 - 2008 BOD Spreadsheet, # 11 Exhibit G-4 - 2009 BOD Spreadsheet, # 12 Exhibit G-5 - 2010 BOD Spreadsheet, # 13 Exhibit G-6 - 2011 BOD Spreadsheet, # 14 Exhibit G-7 - 2012 BOD Spreadsheet) (Waxman, Seth) (Entered: 12/19/2012)
12/19/2012	730	Declaration of Stewart W. Karge filed by Plaintiff Promega Corporation (*Exhibits H to L*) re: 727 Motion for Relief from Judgment (Sealed Document) (Attachments: # 1 Exhibit H - Goebel Dep. - See also 745, # 2 Exhibit I - Edquist Dep. - See also 746 , # 3 Exhibit J - LIFE- 0588878-588902, # 4 Exhibit K - LIFE-0586417, # 5 Exhibit L - IVGN008752_4305979_20070716) (Waxman, Seth) Modified on 1/8/2013 (jaf). (Entered: 12/19/2012)

DATE	NO.	PROCEEDINGS
12/19/2012	731	Declaration of Stewart W. Karge filed by Plaintiff Promega Corporation (*Exhibits M-01 to M-40*) re: 727 Motion for Relief from Judgment (Sealed Document) (Attachments: # 1 Exhibit M-01 - IVGN008696_403038_20060713, # 2 Exhibit M-02 - IVGN008697_403038_20061219, # 3 Exhibit M-03 - IVGN008698_403038_20061230, # 4 Exhibit M-04 - IVGN008699_403038_20070716, # 5 Exhibit M-05 - IVGN008700_403038_20071231, # 6 Exhibit M-06 - IVGN008701_403038_20080716, # 7 Exhibit M-07 - IVGN008702_403038_20091217, # 8 Exhibit M-08 - IVGN008703_403038_20101210, # 9 Exhibit M-09 - IVGN008704_403038_20111208, # 10 Exhibit M-10 - IVGN008705_403038_20120124, # 11 Exhibit M-11 - IVGN008723_4305246_20060713, # 12 Exhibit M-12 - IVGN008724_4305246_20061219, # 13 Exhibit M-13 - IVGN008725_4305246_20061230, # 14 Exhibit M-14 - IVGN008726_4305246_20070716, # 15 Exhibit M-15 - IVGN008727_4305246_20071231, # 16 Exhibit M-16 - IVGN008728_4305246_20080716, #17 Exhibit M-17 - IVGN008729_4305246_20091217, # 18 Exhibit M-18 - IVGN008730_

DATE	NO.	PROCEEDINGS
		4305246_20101210, # 19 Exhibit M-19 - IVGN008731_4305246_20111208, # 20 Exhibit M-20 - IVGN008732_4305246_20120124, # 21 Exhibit M-21 - IVGN008773_4307133_20060713, # 22 Exhibit M-22 - IVGN008774_4307133_20061219, # 23 Exhibit M-23 - IVGN008775_4307133_20061230, # 24 Exhibit M-24 - IVGN008776_4307133_20070716, # 25 Exhibit M-25 - IVGN008777_4307133_2007123, # 26 Exhibit M-26 - IVGN008778_4307133_20080716, # 27 Exhibit M-27 - IVGN008779_4307133_20091217, # 28 Exhibit M-28 - IVGN008780_4307133_20101210, # 29 Exhibit M-29 - IVGN008781_4307133_20111208, # 30 Exhibit M-30 - IVGN008782_4307133_20120124, # 31 Exhibit M-31 - IVGN008786_4322288_20060713, # 32 Exhibit M-32 - IVGN008787_4322288_20060815, # 33 Exhibit M-33 - IVGN008788_4322288_20061219, # 34 Exhibit M-34 - IVGN008789_4322288_20061230, # 35 Exhibit M-35 - IVGN008790_4322288_20070531, # 36 Exhibit M-36 - IVGN008791_4322288_20070716, # 37 Exhibit M-37 - IVGN008792_4322288_20071231, # 38 Exhibit M-38 - IVGN008793_4322288_20080716,

DATE	NO.	PROCEEDINGS
		# 39 Exhibit M-39 - IVGN008794_4322288_20091217, # 40 Exhibit M-40 - IVGN008795_4322288_20101210) (Waxman, Seth) (Entered: 12/19/2012)
12/19/2012	732	Declaration of Stewart W. Karge filed by Plaintiff Promega Corporation (*Exhibits M-41 to M-80*) re: 727 Motion for Relief from Judgment (Sealed Document) (Attachments: # 1 Exhibit M-41 - IVGN008796_4322288_20111208, # 2 Exhibit M-42 - IVGN008797_4322288_20120124, # 3 Exhibit M-43 - IVGN008856_4335129_20060721, # 4 Exhibit M-44 - IVGN008857_4335129_20061219, # 5 Exhibit M-45 - IVGN008858_4335129_20061230, # 6 Exhibit M-46 - IVGN008859_4335129_20070716, # 7 Exhibit M-47 - IVGN008860_4335129_20071231, # 8 Exhibit M-48 - IVGN008861_4335129_20080716, # 9 Exhibit M-49 - IVGN008862_4335129_20091217, # 10 Exhibit M-50 - IVGN008863_4335129_20101210, # 11 Exhibit M-51 - IVGN008864_4335129_20111208, # 12 Exhibit M-52 - IVGN008865_4335129_20120124, # 13 Exhibit M-53 - IVGN008867_4359513_20060714, # 14 Exhibit M-54 - IVGN008868_4359513_20061117, #15 Exhibit M-

DATE	NO.	PROCEEDINGS
		55 - IVGN008869_4359513_20061219, #16 Exhibit M-56 - IVGN008870_4359513_20061230, # 17 Exhibit M-57 - IVGN008871_4359513_20070221, #18 Exhibit M-58 - IVGN008872_4359513_20070525, #19 Exhibit M-59 - IVGN008873_4359513_20070716, # 20 Exhibit M-60 - IVGN008874_4359513_20071231, # 21 Exhibit M-61 - IVGN008875_4359513_20080716, # 22 Exhibit M-62 - IVGN008876_4359513_20091217, # 23 Exhibit M-63 - IVGN008877_4359513_20101210, # 24 Exhibit M-64 - IVGN008878_4359513_20111208, # 25 Exhibit M-65 - IVGN008879_4359513_20120124, # 26 Exhibit M-66 - IVGN008881_4373872_20060803, # 27 Exhibit M-67 - IVGN008882_4373872_20061219, # 28 Exhibit M-68 - IVGN008883_4373872_20061230, # 29 Exhibit M-69 - IVGN008884_4373872_20070221, # 30 Exhibit M-70 - IVGN008885_4373872_20070716, # 31 Exhibit M-71 - IVGN008886_4373872_20071231, # 32 Exhibit M-72 - IVGN008887_4373872_20080716, # 33 Exhibit M-73 - IVGN008888_4373872_20091217,# 34 Exhibit M-74 - IVGN008889_4373872_20101210, # 35 Exhibit M-75 - IVGN008890_

DATE	NO.	PROCEEDINGS
		4373872_20111208, # 36 Exhibit M-76 - IVGN008891_4373872_20120124, # 37 Exhibit M-77 - IVGN008940_4457889_20101001, # 38 Exhibit M-78 - IVGN008941_4457889_20101210, # 39 Exhibit M-79 - IVGN008942_4457889_20111208, # 40 Exhibit M-80 - IVGN008943_4457889_20120124) (Waxman, Seth) (Entered: 12/19/2012)
12/19/2012	733	Declaration of Brandon M. Lewis filed by Plaintiff Promega Corporation re: 727 Motion for Relief from Judgment (Sealed Document) (Attachments: #1 Exhibit A - May 4, 2010 Letter, # 2 Exhibit B - PTX884, # 3 Exhibit C - PTX885, # 4 Exhibit D-1 - Promega 1st RFAs and RFPs, # 5 Exhibit D-2 - LT Resp. to Promega 1st RFAs and RFPs) (Waxman, Seth) (Entered: 12/19/2012)
12/20/2012	734	Declaration of Thomas C. Howerton filed by Plaintiff Promega Corporation re: 727 Motion for Relief from Judgment (Sealed Document) (Attachments: # 1 Exhibit 1 - Component Charts) (Waxman, Seth) (Entered: 12/20/2012)
12/20/2012	735	Redacted Brief in Reply by Plaintiff Promega Corporation in Support of 690 Motion to Set Aside Judgment

DATE	NO.	PROCEEDINGS
		with Respect to Infringement (Waxman, Seth) (Entered: 12/20/2012)
12/20/2012	736	Redacted Brief in Reply by Plaintiff Promega Corporation in Support of 693 Motion to Set Aside Judgment *with Respect to Damages* (Waxman, Seth) (Entered: 12/20/2012)
12/20/2012	737	Redacted Brief in Support of 727 Motion for Relief from Judgment *Based on Newly Discovered Evidence and for a New Trial* by Plaintiff Promega Corporation (Waxman, Seth) (Entered: 12/20/2012)
12/20/2012	738	Redacted Declaration of Stewart W. Karge filed by Plaintiff Promega Corporation re: 727 Motion for Relief from Judgment (Attachments: #1 Exhibit A - LT Resp. to Promega 2d RFP, # 2 Exhibit B - LT Resp. to Promega 3d RFP, # 3 Exhibit C - October 17, 2011 Letter, # 4 Exhibit D - October 18, 2011 Letter, # 5 Exhibit E - October 19, 2011 Letter, # 6 Exhibit F-1 - Promega 2d Doc Requests to IIPH (ARB), # 7 Exhibit F-2 - IIPH Resp. to Promega 2d RFP (ARB), # 8 Exhibit G-M - Redacted) (Waxman, Seth) (Entered: 12/20/2012)
12/20/2012	739	Redacted Declaration of Brandon

DATE	NO.	PROCEEDINGS
		M. Lewis filed by Plaintiff Promega Corporation re: 727 Motion for Relief from Judgment (Attachments: # 1 Exhibit A - May 4, 2010 Letter, # 2 Exhibit B-C - Redacted, # 3 Exhibit D-1 - Promega 1st RFAs and RFPs, # 4 Exhibit D-2 - LT Resp. to Promega 1st RFAs and RFPs) (Waxman, Seth) (Entered: 12/20/2012)
12/20/2012	740	Redacted Declaration of Thomas C. Howerton filed by Plaintiff Promega Corporation re: 727 Motion for Relief from Judgment (Attachments: # 1 Exhibit 1 - Redacted) (Waxman, Seth) (Entered: 12/20/2012)
12/28/2012	741	Motion to Strike portions of 725 Brief in Reply, 726 Brief in Reply by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Response due 1/4/2013. (Reines, Edward) Modified on 1/2/2013 (llj). (Entered: 12/28/2012)
01/04/2013	742	Disregard. See docket entry 745. Requested attorney refile condensed transcript on 1/7/2013 (jaf). Modified on 1/8/2013 (jaf). (Entered: 01/04/2013)

DATE	NO.	PROCEEDINGS
01/04/2013	743	Disregard. See docket entry 746. Requested attorney refile condensed transcript on 1/7/2013 (jaf). Modified on 1/8/2013 (jaf). (Entered: 01/04/2013)
01/04/2013	744	Brief in Opposition by Plaintiff Promega Corporation re: 741 Motion to Strike, filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc. (Waxman, Seth) (Entered: 01/04/2013)
01/07/2013	745	Deposition of Peter Goebel taken on November 8, 2012 (Sealed Document) (Waxman, Seth) (Entered: 01/07/2013)
01/07/2013	746	Deposition of David Edquist taken on November 8, 2012 (Sealed Document) (Waxman, Seth) (Entered: 01/07/2013)
01/07/2013	747	Request for clarification re: briefing on 727 Motion for Relief from Judgment Based on Newly Discovered Evidence and for New Trial by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation (Johnson, Kristine) Modified on 1/8/2013 (llj). (Entered: 01/07/2013)
01/11/2013	748	Motion to Withdraw by Sarah E. Troupis re: Counter Defendant

DATE	NO.	PROCEEDINGS
		Promega Corporation, Plaintiff Promega Corporation (Troupis, Sarah) Modified on 1/15/2013 (llj). (Entered: 01/11/2013)
01/15/2013		Set/Reset Briefing Deadlines as to 727 Motion for Relief from Judgment *Based on Newly Discovered Evidence and for a New Trial.* Brief in Opposition due 2/4/2013. Brief in Reply due 2/14/2013. (llj/BBC) (Entered: 01/15/2013)
01/16/2013	749	Stipulation to Amend June 24, 2010 Protective Order by Plaintiff Promega Corporation. (Saunders, Thomas) (Entered: 01/16/2013)
01/17/2013	750	** TEXT ONLY ORDER ** ORDER accepting 749 stipulation and amending the June 24, 2010, protective order accordingly. Signed by Magistrate Judge Peter A. Oppeneer on 1/17/2013. (llj) (Entered: 01/17/2013)
01/17/2013	751	** TEXT ONLY ORDER ** ORDER granting 748 Motion to Withdraw by Sarah E. Troupis. Signed by Magistrate Judge Peter A. Oppeneer on 1/17/2013. (llj) (Entered: 01/17/2013)
01/18/2013	752	Motion for Extension of Time *to File Opposition Memorandum* by Defendants Applied Biosystems,

DATE	NO.	PROCEEDINGS
		LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. Response due 1/25/2013. (Johnson, Kristine) (Entered: 01/18/2013)
01/21/2013	753	Brief in Opposition by Plaintiff Promega Corporation re: 752 MOTION for Extension of Time, filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc. (Waxman, Seth) (Entered: 01/21/2013)
01/22/2013	754	** TEXT ONLY ORDER ** Defendant may have until February 19, 2013, to file its opposition brief re: 727 Motion for Relief from Judgment. Signed by Magistrate Judge Peter A. Oppeneer on 1/22/2013. (llj) (Entered: 01/22/2013)
02/20/2013	755	Brief in Opposition by Defendant Life Technologies Corporation re: 727 Motion for Relief from Judgment filed by Promega Corporation (Attachments: #1 Declaration of Timothy C. Saulsbury Pursuant to Section IV.G, Administrative Procedures Governing Untimely Filings Due to Failures of the Court's Electronic Filing System) (Saulsbury,

DATE	NO.	PROCEEDINGS
		Timothy) Modified on 2/21/2013 (llj). (Entered: 02/20/2013)
02/20/2013	756	Declaration of Peter Goebel filed by Defendant Life Technologies Corporation re: 727 Motion for Relief from Judgment (Sealed Document) (Saulsbury, Timothy) Modified on 2/21/2013 (llj). (Entered: 02/20/2013)
02/20/2013	757	Declaration of Charles Hess filed by Defendant Life Technologies Corporation re: 727 Motion for Relief from Judgment (Sealed Document) (Saulsbury, Timothy) Modified on 2/21/2013 (llj). (Entered: 02/20/2013)
02/20/2013	758	Declaration of Kristine E. Johnson filed by Defendant Life Technologies Corporation re: 727 Motion for Relief from Judgment (Sealed Document) (Attachments: # 1 Exhibit A - November 7, 2011 response letter to Mr. Karge, # 2 Exhibit B - Notice of Rule 30(b)(6) Deposition, # 3 Exhibit C - Responses to Promega's Second Set Of Interrogatories) (Saulsbury, Timothy) Modified on 2/21/2013 (jaf). Modified on 2/21/2013 (llj). (Entered: 02/20/2013)
02/20/2013	759	Declaration of Hugh Pasika filed by Defendant Life Technologies

DATE	NO.	PROCEEDINGS
		Corporation re: 727 Motion for Relief from Judgment (Sealed Document) (Saulsbury, Timothy) Modified on 2/21/2013 (llj). (Entered: 02/20/2013)
02/20/2013	760	Declaration of Christopher V. Popov filed by Defendant Life Technologies Corporation re: 727 Motion for Relief from Judgment (Sealed Document) (Attachments: # 1 Exhibit A - May 9, 2012 Letter, # 2 Exhibit B - June 13, 2012 Email, # 3 Exhibit C - July 27, 2012 Email, # 4 Exhibit D - August 1, 2012 Email, # 5 Exhibit E - August 3, 2012 Email, # 6 Exhibit F - Spreadsheet) (Saulsbury, Timothy) Modified on 2/21/2013 (jaf). Modified on 2/21/2013 (llj). (Entered: 02/20/2013)
02/20/2013	761	Exhibit A to 755 Brief in Opposition, Declaration of Timothy C. Saulsbury, re: failure of the court's electronic filing system on 2/19/2013, filed by Life Technologies Corporation. (Saulsbury, Timothy) Modified on 2/21/2013 (jaf). Modified on 2/21/2013 (llj). (Entered: 02/20/2013)
03/01/2013	762	Brief in Reply by Plaintiff Promega Corporation in Support of 727 Motion for Relief from Judgment *Based on Newly Discovered*

DATE	NO.	PROCEEDINGS
		Evidence (Sealed Document) (Waxman, Seth) (Entered: 03/01/2013)
03/01/2013	763	Declaration of Stewart W. Karge filed by Plaintiff Promega Corporation re: 727 Motion for Relief from Judgment (Sealed Document) (Attachments: # 1 Exhibit 1 - Promega 3d Document Requests) (Waxman, Seth) Modified on 3/6/2013 (llj). (Entered: 03/01/2013)
03/01/2013	764	Redacted Brief in Reply by Plaintiff Promega Corporation in Support of 727 Motion for Relief from Judgment *Based on Newly Discovered Evidence* (Waxman, Seth) (Entered: 03/01/2013)
03/01/2013	765	Redacted Declaration of Stewart W. Karge filed by Plaintiff Promega Corporation re: 727 Motion for Relief from Judgment (Attachments: # 1 Exhibit 1 - Promega 3d Document Requests) (Waxman, Seth) Modified on 3/6/2013 (llj). (Entered: 03/01/2013)
03/12/2013	766	Motion to Admit Jonathan Andrew Muenkel Pro Hac Vice. (Pro Hac Vice fee $ 50 receipt number 0758-1141730.) by Counter Claimants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life

DATE	NO.	PROCEEDINGS
		Technologies Corporation, Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. (Muenkel, Jonathan) (Entered: 03/12/2013)
03/12/2013	767	Notice of Withdrawal of Katherine M. Nolan-Stevaux as counsel for Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (Johnson, Kristine) Modified on 3/13/2013 (llj). (Entered: 03/12/2013)
03/13/2013	768	** TEXT ONLY ORDER ** ORDER granting 766 Motion to Admit Jonathan Muenkel Pro Hac Vice. Signed by Magistrate Judge Peter A. Oppeneer on 3/13/2013. (llj) (Entered: 03/13/2013)
03/21/2013	769	Notice of Change of Address for Attorney Steward W. Karge. (Lewis, Brandon) Modified on 3/22/2013 (llj). (Entered: 03/21/2013)
04/22/2013	770	ORDER denying 690 Motion to Set Aside Judgment, 693 Motion to Set Aside Judgment, 697 Motion for Oral Argument, 727 Motion for Relief from Judgment, and 741 Motion to Strike. Signed by District Judge Barbara B. Crabb on

DATE	NO.	PROCEEDINGS
		4/22/2013. (llj) (Entered: 04/22/2013)
04/26/2013	771	NOTICE OF APPEAL - FEDERAL CIRCUIT by Plaintiff Promega Corporation. Filing fee of $ 455, receipt number 0758-1167828 paid. (Waxman, Seth) (Entered: 04/26/2013)
04/29/2013		Federal Circuit Court of Appeals Case Number 13-1011 reactivated for 686 Notice of Appeal filed by Promega Corporation. (llj) Modified on 4/29/2013; corrected appeal docket number (mmo). (Entered: 04/29/2013)
04/29/2013	772	ORDER from Federal Circuit that 686 Notice of Appeal, #13-1011, be REACTIVATED effective 4/26/13. (mmo) (Entered: 04/29/2013)
04/30/2013	773	In Disregard - refiled as entry 774 . Modified on 4/30/2013 (mmo). (Entered: 04/30/2013)
04/30/2013	774	Transmission of Short Record to FEDERAL CIRCUIT re 771 Notice of Appeal. (mmo) (Entered: 04/30/2013)
05/01/2013	775	Federal Circuit Case Number 13-1376 for 771 Notice of Appeal filed by Promega Corporation. (lak) (Entered: 05/01/2013)

DATE	NO.	PROCEEDINGS
05/22/2013	776	Bill of Costs by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. Objection to Bill of Costs due 6/3/2013. Brief in Support to Bill of Costs due 6/11/2013. Brief in Reply in Opposition to Bill of Costs due 6/17/2013. (Attachments: # 1 Declaration of Kristine E. Johnson in Support of Defendants' Bill of Costs - Refiled 777, # 2 Exhibit A to Declaration of Kristine E. Johnson - Refiled [777-1], # 3 Exhibit B to Declaration of Kristine E. Johnson - Refiled [777-2], # 4 Exhibit C-1 to Declaration of Kristine E. Johnson - Refiled [777-3], # 5 Exhibit C-2 to Declaration of Kristine E. Johnson - Refiled [777-4]) (Johnson, Kristine) Requested attorney refile declaration as individual docket entry with any exhibits separated and identified properly on 5/23/2013 (jaf). Modified on 5/24/2013 (jaf). Modified on 5/31/2013 (llj). (Entered: 05/22/2013)
05/23/2013	777	Declaration of Kristine E. Johnson in Support of 776 Bill of Costs, (Attachments: # 1 Exhibit A – Detailed List of Fees for Deposition and Trial Transcripts, # 2 Exhibit B – Detailed List of Fees for

DATE	NO.	PROCEEDINGS
		Copying Costs, # 3 Exhibit C-1 – Fees and Costs Associated with E-Discovery Document Production, # 4 Exhibit C-2 – Fees and Costs Associated with E-Discovery Document Production) (Johnson, Kristine) Modified on 5/31/2013 (llj). (Entered: 05/23/2013)
07/10/2013	778	ORDER on Bill of Costs: Costs Taxed in favor of Defendants in the amount of $ 58,191.99. Signed by Peter A. Oppeneer, Clerk of Court by Deputy Clerk R.Plender on 7/10/13. (rep) (Entered: 07/10/2013)
07/11/2013	779	Stipulation to Unseal Portions of the Record by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (Modl, Michael) (Entered: 07/11/2013)
07/11/2013	780	** TEXT ONLY ORDER ** Stipulation to unseal portions of the record (dkt. 779) is accepted; identified documents to be unsealed accordingly. Signed by Magistrate Judge Peter A. Oppeneer on 7/11/13. (rep) (Entered: 07/11/2013)
12/17/2014	781	ORDER from USCA for the Federal Circuit Affirming In Part, Reversing In Part, Vacating In Part And Remanding Case as to 147 Notice of Appeal, filed by Promega

DATE	NO.	PROCEEDINGS
		Corporation, 686 Notice of Appeal filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc., 703 Notice of Appeal, filed by Promega Corporation, 771 Notice of Appeal filed by Promega Corporation. (Attachments: # 1 Notice of Entry of Judgment, # 2 Information Sheet, # 3 Rehearing Questions and Answers) (voc) (Entered: 12/17/2014)
01/26/2015		Set Telephone Status Conference: Telephone Status Conference set for 2/11/2015 at 08:30 AM before Magistrate Judge Stephen L. Crocker. Counsel for Plaintiff responsible for setting up the call to chambers at (608) 264-5153. (voc) (Entered: 01/26/2015)
01/26/2015		Telephone Status Conference rescheduled to 2/11/2015 at 09:00 AM before Peter Oppeneer. Counsel for Plaintiff responsible for setting up the call to chambers at 608-261-5795. (voc) (Entered: 01/26/2015)
01/28/2015	782	Status Report by Counter Claimant Life Technologies Corporation, Defendant Life Technologies Corporation (Attachments: # 1 Certificate of Service) (Modl, Michael) (Entered: 01/28/2015)

DATE	NO.	PROCEEDINGS
01/29/2015	783	** TEXT ONLY ORDER ** The 2/11/2015 Telephone Status Conference is canceled pending receipt of the USCA mandate. Signed by Magistrate Judge Peter A. Oppeneer on 1/29/2015. (voc) (Entered: 01/29/2015)
03/06/2015	784	Mandate from USCA for the Federal Circuit as to 147 Notice of Appeal, filed by Promega Corporation, 686 Notice of Appeal filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc., 771 Notice of Appeal filed by Promega Corporation. (voc) (Entered: 03/06/2015)
03/09/2015		Set Telephone Status Conference: Telephone Status Conference set for 3/31/2015 at 01:30 PM before Judge Barbara B. Crabb. Counsel for Plaintiff responsible for setting up the call to chambers at (608) 264-5447. (voc/sv/bbc) (Entered: 03/09/2015)
03/24/2015	785	Notice of Withdrawal of Counsel by Michael J. Modl re: Defendants Applied Biosystems, LLC, Life Technologies Corporation, Counter Claimant Invitrogen IP Holdings, Inc. *Notice of Withdrawal of Michael R. McCarthy*. (Modl,

DATE	NO.	PROCEEDINGS
		Michael) Modified on 3/25/2015. (lak) (Entered: 03/24/2015)
03/24/2015	786	Notice of Withdrawal of Counsel by Michael J. Modl re: Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. *Notice of Withdrawal of Kristine E. Johnson.* (Modl, Michael) Modified on 3/25/2015. (lak) (Entered: 03/24/2015)
03/24/2015	787	Notice of Withdrawal of Counsel by Michael J. Modl re: Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. *Notice of Withdrawal of Francis M Wikstrom.* (Modl, Michael) Modified on 3/25/2015. (lak) (Entered: 03/24/2015)
03/26/2015	788	Notice of Withdrawal of Counsel by Susan Rebecca Podolsky re: Counter Defendant Promega Corporation, Plaintiff Promega Corporation. (Podolsky, Susan) (Entered: 03/26/2015)
03/27/2015	789	Notice of Appearance filed by David J. Harth for Plaintiff Promega Corporation. (Harth, David) (Entered: 03/27/2015)
03/27/2015	790	Notice of Appearance filed by John S. Skilton for Plaintiff Promega

DATE	NO.	PROCEEDINGS
		Corporation. (Skilton, John) (Entered: 03/27/2015)
03/27/2015	791	Notice of Appearance filed by David L. Anstaett for Plaintiff Promega Corporation. (Anstaett, David) (Entered: 03/27/2015)
03/27/2015	792	Notice of Appearance filed by Anne M. Readel for Plaintiff Promega Corporation. (Readel, Anne) (Entered: 03/27/2015)
03/27/2015	793	Notice of Change of Address by Brandon Michael Lewis (Lewis, Brandon) (Entered: 03/27/2015)
03/31/2015		Minute Entry for proceedings held before District Judge Barbara B. Crabb: Telephone Status Conference held on 3/31/2015 [:15] (sky) (Entered: 03/31/2015)
04/17/2015	794	ORDER re: 3/31/2015 Status Conference. The parties discussed the scope of the Federal Circuit remand. The parties agreed that briefing would be helpful to narrow the issues prior to scheduling a new trial date. Signed by District Judge Barbara B. Crabb on 4/16/2015. (voc) (Entered: 04/17/2015)
04/17/2015		Briefing set re: Briefing after Federal Circuit remand. Simultaneous opening briefs due 5/1/2015. Simultaneous response briefs due 5/15/2015. Signed by

DATE	NO.	PROCEEDINGS
		District Judge Barbara B. Crabb on 4/17/2015. (voc) Modified on 7/20/2015 (voc/sv). (Entered: 04/17/2015)
05/01/2015	795	Redaction to 796 Response to Order, by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (Modl, Michael) Modified on 5/4/2015 to correct docketing event. (lak) (Entered: 05/01/2015)
05/01/2015	796	Response re: 794 Order, by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (Sealed Document) (Modl, Michael) (Entered: 05/01/2015)
05/01/2015	797	Declaration of Edward Reines filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 794 Order, (Attachments: # 1 Exhibit 1 - Promega Petition for Panel Rehearing Excerpts, # 2 Exhibit 2 - Life Petition for Panel Rehearing Excerpts, # 3 Exhibit 3 - PTX0341, # 4 Exhibit 4 - Tautz Complaint, # 5 Exhibit 5 - Release and Covenant Not to Sue Excerpts, # 6 Exhibit 6 - Promega Opening Brief Excerpts, # 7 Exhibit 7 - Appellants Reply Brief and Cross

DATE	NO.	PROCEEDINGS
		Appeal Response Excerpts) (Modl, Michael) (Entered: 05/01/2015)
05/01/2015	798	Response re: 794 Order, by Plaintiff Promega Corporation. (Anstaett, David) (Entered: 05/01/2015)
05/15/2015	799	Response re: 794 Order. *Response to Promega Corporation's Opening Brief Regarding Scope of Remand* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. (Sealed Document) (Modl, Michael) (Entered: 05/15/2015)
05/15/2015	800	Declaration of Edward R. Reines filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation *in Support of Defendants' Response to Promega Corp.'s Opening Brief Regarding Scope of Remand* re: 794 Order, (Attachments: # 1 Exhibit 8 - Copy of Life Tech's Reply Brief and Cross Appeal Response) (Modl, Michael) (Entered: 05/15/2015)
05/15/2015	801	Redaction to 799 Response to Order. *Response to Promega Corporation's Opening Brief Regarding Scope of Remand* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation.

DATE	NO.	PROCEEDINGS
		(Modl, Michael) (Entered: 05/15/2015)
05/15/2015	802	Response re: 794 Order. *Response Brief on Structure of Remand Proceedings* by Plaintiff Promega Corporation. (Anstaett, David) (Entered: 05/15/2015)
06/08/2015	803	Status Report by Counter Claimant Life Technologies Corporation, Defendant Life Technologies Corporation. (Modl, Michael) (Entered: 06/08/2015)
06/09/2015	804	Status Report *in Response to Dkt. 803* by Counter Defendant Promega Corporation, Plaintiff Promega Corporation. (Anstaett, David) (Entered: 06/09/2015)
06/26/2015	805	Motion to Stay *Pending Petition for Writ of Certiorari to the United States Supreme Court* by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation. Response due 7/6/2015. (Modl, Michael) (Entered: 06/26/2015)
06/26/2015	806	Declaration of Edward R. Reines filed by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation re: 805. Motion to Stay, (Attachments: # 1 Exhibit 1 - Copy of Life Technology Corporation's

DATE	NO.	PROCEEDINGS
		Petition for Writ of Certiorari) (Modl, Michael) (Entered: 06/26/2015)
06/30/2015	807	Unopposed Motion for Extension of Time by Plaintiff Promega Corporation. Motions referred to Magistrate Judge Peter A. Oppeneer. (Anstaett, David) (Entered: 06/30/2015)
07/01/2015	808	** TEXT ONLY ORDER ** ORDER granting 807 Motion for Extension of Time. Brief in Opposition due 7/10/2015. Signed by Magistrate Judge Peter A. Oppeneer on 7/1/2015. (voc) (Entered: 07/01/2015)
07/10/2015	809	Brief in Opposition by Plaintiff Promega Corporation re: 805 Motion to Stay filed by Applied Biosystems, LLC, Life Technologies Corporation, Invitrogen IP Holdings, Inc. (Anstaett, David) (Entered: 07/10/2015)
		* * * *
07/15/2015	811	ORDER granting 805 Motion to Stay by Defendants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. This case is STAYED pending a decision from the United States Supreme Court on defendants' petition for a writ of

DATE	NO.	PROCEEDINGS
		certiorari. Defendants are directed to notify this court within seven days of the Supreme Court's decision on the petition. Signed by District Judge Barbara B. Crabb on 7/14/2015. (voc) (Entered: 07/15/2015)
		* * * *
07/14/2016	814	** TEXT ONLY ORDER ** Defendants Life Technologies Corporation, Invitrogen IP Holdings, Inc. and Applied Biosystems, Inc., have moved for a continuation of the stay of this case pending determination by the United States Supreme Court of the question upon which the Court granted their motion for a writ of certiorari. The motion 813 is granted. Signed by District Judge Barbara B. Crabb on 7/14/2016. (voc) (Entered: 07/14/2016)

U.S. COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

No. 13-1011

PROMEGA CORPORATION,

Plaintiff, Cross-Appellant,

v.

LIFE TECHNOLOGIES CORPORATION, INVITROGEN IP HOLDINGS, INC., APPLIED BIOSYSTEMS, LLC,

Defendants-Appellants.

DOCKET ENTRIES

DATE	NO.	PROCEEDINGS
10/12/2012	1	Appeal docketed. Received: 09/28/2012. [29617] Entry of Appearance due 10/26/2012. Certificate of Interest is due on 10/26/2012. Docketing Statement due 10/26/2012. Appellant/ Petitioner's brief due 12/11/2012.
10/16/2012	2	Transcript Purchase Order Form for the Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation indicating that a transcript is already on file. Service: 10/10/2012 by US mail. [29965]

DATE	NO.	PROCEEDINGS
10/23/2012	3	Entry of appearance for Seth P. Waxman as principal counsel for Appellee Promega Corporation. Service: 10/23/2012 by email. [31261]
10/23/2012	4	Entry of appearance for Mark C. Fleming as of counsel for Appellee Promega Corporation. Service: 10/23/2012 by email. [31262]
10/23/2012	5	Docketing Statement for the Appellee Promega Corporation. Service: 10/23/2012 by email. [31263]
10/24/2012	6	Note to file: 13-1029 (cross-appeal started 10/24/2012) is consolidated with 13-1011. [31270]
10/24/2012	7	Official caption revised to add cross appeal by Promega Corp. Service: 10/24/2012 by clerk. [31276]
10/24/2012	8	Certificate of Interest for the Cross-Appellant Promega Corporation. Service: 10/24/2012 by email. [31447]
10/25/2012	9	Corrected Docketing Statement for the Cross-Appellant Promega Corporation. Service: 10/25/2012 by email. [31586]
10/25/2012	10	Entry of appearance for Susan R. Podolsky as of counsel for Cross-Appellant Promega Corporation. Service: 10/25/2012 by email. [31598]
10/25/2012	11	Entry of appearance for Edward R. Reines as principal counsel for Appellants Applied Biosystems,

DATE	NO.	PROCEEDINGS
		LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Service: 10/25/2012 by email. [31682]
10/25/2012	12	Entry of appearance for Timothy C. Saulsbury as of counsel for Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Service: 10/25/2012 by email. [31683]
10/26/2012	13	Docketing Statement for the Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Service: 10/26/2012 by email. [31864]
10/26/2012	14	Certificate of Interest for the Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Service: 10/26/2012 by email. [31865]
10/26/2012	15	Entry of appearance for Bradford P. Schmidt as of counsel for Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Service: 10/26/2012 by email. [31866]
10/31/2012	16	Notice from Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation regarding postjudgment motions. Service: 10/31/2012 by email. [32114]

DATE	NO.	PROCEEDINGS
11/06/2012	17	CORRECTED ENTRY: ORDER deactivating appeal. Service: 11/06/2012 by clerk. [32951]—[Edited 11/06/2012 by SJ - Reason: to add additional case number and appeal date]
11/06/2012	18	Clerk's Notice to the Originating Tribunal: Upon disposition of the motion(s) subject to FRAP 4(a)(4), please transmit a certified copy of the docket entries. Service: 11/06/2012 by clerk [32961]
04/23/2013	19	Notice from Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation regarding postjudgment motions. Service: 04/23/2013 by email, US mail. [70389]
04/26/2013	20	ORDER reactivating case. Service: 04/26/2013 by. [71697] [13-1011, 13-1029]
04/26/2013	21	Entry of appearance for Proshanto Mukherji as of counsel for Cross-Appellant Promega Corporation. Service: 04/26/2013 by email. [72165]
04/29/2013	22	Saulsbury Letter to Mr. Horbaly for Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Service: 04/29/2013 by email, US mail. [72748]

DATE	NO.	PROCEEDINGS
05/01/2013	23	Note to file: 13-1376 (Consolidated started 05/01/2013) with 13-1011. [73528]
05/01/2013	24	Official caption revised; Amended NOA filed. Service: 05/01/2013 by clerk. [73530]
05/13/2013	25	Entry of appearance for Dina B. Mishra as of counsel for Cross-Appellant Promega Corporation. Service: 05/13/2013 by email, US mail. [77126]
05/15/2013	26	Entry of appearance for Thomas G. Saunders as of counsel for Cross-Appellant Promega Corporation. Service: 05/15/2013 by email. [78057]
05/15/2013	27	Amended Docketing Statement for the Cross-Appellant Promega Corporation. Service: 05/15/2013 by email. [78060]
05/17/2013	28	Entry of appearance for Derek C. Walter as of counsel for Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Service: 05/17/2013 by email, US mail. [78788]
06/07/2013	29	MOTION of Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation to extend the time to 07/19/2013 to file the appellant/petitioner's principal brief.

DATE	NO.	PROCEEDINGS
		Response/Opposition is due 06/20/2013 [Consent: unopposed]. Service: 06/07/2013 by email, US mail. [84983]
06/10/2013	30	ORDER granting motion to extend time to file appellant's principal brief [29] filed by Applied Biosystems, LLC, Life Technologies Corporation and Invitrogen IP Holdings, Inc. Brief due 07/19/2013. Service: 06/10/2013 by clerk. [85097]
06/10/2013	31	Certificate of Compliance with Fed. Cir. R. 11(d) (Trial Court) for Cross-Appellant Promega Corporation. Service: 06/10/2013 by email. [85356]
06/10/2013	32	Certificate of Compliance with Fed. Cir. R. 11(d) (Trial Court) for Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Service: 06/10/2013 by email, US mail. [85358]
07/12/2013	33	TENDERED from Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Title: OPENING BRIEF W/ APPENDIX. Service: 07/12/2013 by email. [91439]
07/12/2013	34	TENDERED from Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Title:

DATE	NO.	PROCEEDINGS
		CONFIDENTIAL OPENING BRIEF W/ APPENDIX Service: 07/12/2013 by email. [91440]
07/12/2013	36	BRIEF FILED for Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation [34], [33]. Title: Opening Brief of Defendants-Appellants , [Confidential and Non-Confidential versions]. Number of Pages: 61. Service: 07/12/2013 by email. Pursuant to ECF-10, filer is directed to file six copies of the brief in paper format. The paper copies of the brief should be received by the court on or before 07/22/2013. Cross-Appellant Promega Corporation brief is due 08/26/2013. [91523]
07/15/2013	35	Entry of appearance for Carter G. Phillips as of counsel for Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Service: 07/15/2013 by email, US mail. [91509]
07/19/2013	37	6 paper copies of the 1st brief Brief [36] received from Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. [93860]

DATE	NO.	PROCEEDINGS
08/12/2013	38	Entry of appearance for Eric F. Fletcher as of counsel for Cross-Appellant Promega Corporation. Service: 08/12/2013 by email. [97616]
08/26/2013	39	TENDERED from Cross-Appellant Promega Corporation. Title: OPENING BRIEF W/ APPENDIX. Service: 08/26/2013 by email. [100219]
08/26/2013	40	TENDERED from Cross-Appellant Promega Corporation. Title: CONFIDENTIAL OPENING BRIEF W/ APPENDIX Service: 08/26/2013 by email. [100221]
08/26/2013	41	BRIEF FILED for Cross-Appellant Promega Corporation [40], [39]. Title: OPENING BRIEF OF PLAINTIFF-CROSS APPELLANT PROMEGA CORPORATION, [Confidential and Non-Confidential versions]. Number of Pages: 186. Service: 08/26/2013 by email.. Pursuant to ECF-10, filer is directed to file six copies of the brief in paper format. The paper copies of the brief should be received by the court on or before 09/03/2013. Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation reply brief is due 10/10/2013-[Edited 08/29/2013 by CC to schedule the correct due date.]. [100642]

DATE	NO.	PROCEEDINGS
09/05/2013	42	6 paper copies of the 2nd brief Brief [41] received from Cross-Appellant Promega Corporation. [101775]
10/10/2013	43	TENDERED from Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Title: REPLY BRIEF. Service: 10/10/2013 by email. [109617]
10/10/2013	44	BRIEF FILED for Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation [43]. Title: Defendants-Appellants' Reply Brief and Cross Appeal, [Non-Confidential version only]. Number of Pages: 58. Service: 10/10/2013 by clerk. Pursuant to ECF-10, filer is directed to file six copies of the brief in paper format. The paper copies of the brief should be received by the court on or before 10/16/2013. Cross-Appellant's reply brief is due 10/28/2013. [109735]
10/15/2013	45	6 paper copies of the 3rd brief Brief [44] received from Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. [110673]
10/18/2013	46	Statement of Compliance with Fed. Cir. R. 33 for Appellants Applied Biosystems, LLC, Invitrogen IP

DATE	NO.	PROCEEDINGS
		Holdings, Inc., Life Technologies Corporation and Cross-Appellant Promega Corporation. Service: 10/18/2013 by email. [111420]
10/28/2013	47	TENDERED from Cross-Appellant Promega Corporation. Title: REPLY BRIEF. Service: 10/28/2013 by email. [113352]
10/28/2013	48	TENDERED from Cross-Appellant Promega Corporation. Title: CONFIDENTIAL REPLY BRIEF Service: 10/28/2013 by email. [113353]
10/28/2013	49	BRIEF FILED for Cross-Appellant Promega Corporation [48], [47]. Title: Reply Brief of Plaintiff-Cross Appellant Promega Corporation, [Confidential and Non-Confidential versions]. Number of Pages: 30. Service: 10/28/2013 by email. Pursuant to ECF-10, filer is directed to file six copies of the brief in paper format. The paper copies of the brief should be received by the court on or before 11/04/2013. Appendix is due 11/07/2013. [113445]
10/31/2013	50	6 paper copies of the 4th brief Brief [49] received from Cross-Appellant Promega Corporation. [114058]

DATE	NO.	PROCEEDINGS
11/04/2013	51	TENDERED from Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation and Cross-Appellant Promega Corporation. Title: CONFIDENTIAL JOINT APPENDIX Service: 11/04/2013 by email. [114730]
11/04/2013	52	TENDERED from Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc., Life Technologies Corporation and Cross-Appellant Promega Corporation. Title: JOINT APPENDIX. Service: 11/04/2013 by email. [114744]
11/04/2013	53	APPENDIX FILED for Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation [52], [51]. Title: Joint Appendix (Four Volumes), [Confidential and Non-Confidential versions]. Number of Pages: 2179. Service: 11/04/2013 by email. Pursuant to ECF-10, filer is directed to file six copies of the brief in paper format. The paper copies of the brief should be received by the court on or before 11/12/2013. [114872]
11/07/2013	54	Notice from Cross-Appellant Promega Corporation regarding conflicts with oral argument (commitments in other cases

DATE	NO.	PROCEEDINGS
		1/6/2014 to 1/10/2014). Service: 11/07/2013 by email. [115580]
11/12/2013	55	24 paper copies of the appendix Brief [53] received from Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. [116699]
11/14/2013	56	Letter from Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation regarding potential conflicts with oral argument. Service: 11/14/2013 by email. [116990]
01/02/2014	57	Notice from Cross-Appellant Promega Corporation regarding conflicts with oral argument (March 3, 2014). Service: 01/02/2014 by email. [126683]
01/03/2014	58	This entry was made in error and has been removed from the docket. Notice from Cross-Appellant Promega Corporation regarding conflicts with oral argument (cross-appellant requesting argument to not be set with 13-1454 on the same day). (Noted by Clerk). Service: 01/02/2014 by email. [126744]
01/22/2014	59	NOTICE OF CALENDARING. Panel: 1403C. Case scheduled Mar 04, 2014 10:00 a.m. at the United States Court of Appeals for the

DATE	NO.	PROCEEDINGS
		Federal Circuit (Howard T. Markey National Courts Building, 717 Madison Place, N.W. Washington, DC 20439), Courtroom 201. Response to oral argument order due: 02/18/2014. Counsel should check-in 30 minutes prior to the opening of the session. Please review the Oral Argument Order. [130775] [13-1011, 13-7059, 13-1454, 13-1513]
01/28/2014	60	MOTION of Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation to withdraw counsel Timothy C. Saulsbury. Response/ Opposition is due 02/10/2014 [Consent: unopposed]. Service: 01/28/2014 by email. [132233]
01/30/2014	61	ORDER filed granting motion to withdraw attorney [60] filed by Appellants Applied Biosystems, LLC, Life Technologies Corporation and Invitrogen IP Holdings, Inc. By: Merits Panel (Per Curiam). Service: 01/30/2014 by clerk. [132868]
01/30/2014	62	CORRECTED ORDER: correcting court order [61] granting appellants' motion to withdraw Timothy C. Saulsbury as counsel. Service: 01/30/2014 by clerk.
02/11/2014	63	Response to oral argument order from the Cross-Appellant Promega

DATE	NO.	PROCEEDINGS
		Corporation designating Seth P. Waxman as arguing attorney. Service: 02/11/2014 by email Designated time for argument: 10 minutes. Designated time for rebuttal: 5 minutes. [135390]
02/14/2014	64	Amended Certificate of Interest for the Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Service: 02/13/2014 by email. [135785]
02/14/2014	65	Response to oral argument order from the Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation designating Edward R. Reines as arguing attorney. Service: 02/13/2014 by email Designated time for argument: 8 minutes. Designated time for rebuttal: 7 minutes. [135786]
02/25/2014	66	MOTION of Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation to withdraw counsel Bradford Paul Schmidt. Response/ Opposition is due 03/10/2014 [Consent: unopposed]. Service: 02/25/2014 by email. [138182]
02/27/2014	67	ORDER filed granting motion to withdraw attorney [66] filed by

DATE	NO.	PROCEEDINGS
		Appellants Applied Biosystems, LLC, Life Technologies Corporation and Invitrogen IP Holdings, Inc. By: Merits Panel (Per Curiam). Service: 02/27/2014 by clerk. [138619]
03/04/2014	68	Submitted after ORAL ARGUMENT by Edward R. Reines for Applied Biosystems, LLC, Life Technologies Corporation and Invitrogen IP Holdings, Inc. and Mr. Seth P. Waxman for Promega Corporation. Panel: Judge: Prost , Judge: Mayer, Judge: Chen. [139316]
12/15/2014	69	OPINION and JUDGMENT filed. The judgment or decision is: affirmed-in-part, reversed-in-part, vacated-in-part, and remanded. (Precedential Opinion). (For the Court: Prost, Chief Judge; Mayer, Circuit Judge and Chen, Circuit Judge). Dissenting-in-part opinion filed by Cheif [sic] Judge Prost. [203973]
01/13/2015	70	Entry of appearance for Marion M. Read as of counsel for Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Service: 01/13/2015 by email. [209410]
01/14/2015	71	Petition for panel rehearing, for en banc rehearing filed by Appellants

DATE	NO.	PROCEEDINGS
		Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. Service: 01/14/2015 by email. [209942]
01/14/2015	72	Petition for panel rehearing filed by Cross-Appellant Promega Corporation. Service: 01/14/2015 by email. [209947]
01/15/2015	73	3 paper copies of the petition for panel rehearing [72] received from Cross-Appellant Promega Corporation. [210256]
01/16/2015	74	16 paper copies of the petition for panel rehearing and for en banc rehearing [71] received from Appellants Applied Biosystems, LLC, Invitrogen IP Holdings, Inc. and Life Technologies Corporation. [210366]
01/20/2015	75	The court invites a response from Cross-Appellant Promega Corporation to the combined petition for panel rehearing and en banc rehearing filed by Appellants in 13-1011. [210899]
01/27/2015	76	Entry of appearance for David Swetnam-Burland as of counsel for Newegg, Inc., Acushnet Company, Limelight Networks, Inc., QVC, Inc., and SAS Institute Inc. Service: 01/27/2015 by email. [212954]
01/27/2015	77	MOTION of Newegg, Inc., Acushnet

DATE	NO.	PROCEEDINGS
		Company, Limelight Networks, Inc., QVC, Inc., and SAS Institute Inc. for leave to file amicus brief in support of Defendants-Appellants Life Technologies Corporation, Invitrogen IP Holdings, Inc., and Applied Biosystems, LLC on petition for panel rehearing [71], petition for en banc rehearing [71]. Response/Opposition is due 02/09/2015 [Consent: unopposed]. Service: 01/27/2015 by email. [212957]
01/27/2015	78	TENDERED from Newegg, Inc., Acushnet Company, Limelight Networks, Inc., QVC, Inc., and SAS Institute Inc. Title: AMICUS CURIAE BRIEF. Service: 01/27/2015 by email. [212959]
01/28/2015	79	TENDERED from Newegg, Inc., Acushnet Company, Limelight Networks, Inc., QVC, Inc., and SAS Institute Inc Title: AMENDED AMICUS CURIAE BRIEF. Service: 01/28/2015 by email. [213205]
01/28/2015	80	Entry of appearance for Daryl L. Joseffer as principal counsel for The Internet Association. Service: 01/28/2015 by email. [213484]
01/28/2015	81	MOTION of The Internet Association for leave to file amicus brief in support of The Internet Association on petition for panel rehearing [71],

DATE	NO.	PROCEEDINGS
		petition for en banc rehearing [71]. Response/Opposition is due 02/12/2015 [Consent: unopposed]. Service: 01/28/2015 by email. [213486]
01/28/2015	82	TENDERED from The Internet Association Title: AMICUS CURIAE BRIEF. Service: 01/26/2015 by email. [213487]
01/28/2015	83	Entry of appearance for Adam M. Conrad as of counsel for The Internet Association. Service: 01/28/2015 by email. [213488]
01/28/2015	84	Entry of appearance for Paul Alessio Mezzina as of counsel for The Internet Association. Service: 01/28/2015 by email. [213489]
02/02/2015	86	ORDER filed granting motion to file amicus brief on rehearing petition [81]. By: Court (Per Curiam). Service as of this date by Clerk of Court. [214258]
02/02/2015	87	AMICUS BRIEF FILED for The Internet Association [82]. Number of Pages: 10. Service: 01/28/2015 by email. Pursuant to ECF-10, filer is directed to file 16 copies of the brief in paper format. The paper copies of the brief should be received by the court on or before 02/04/2015. [214260]

DATE	NO.	PROCEEDINGS
02/02/2015	88	16 paper copies of the amicus Brief [87] received from Amicus Curiae The Internet Association. [214483]
02/03/2015	89	RESPONSE of Cross-Appellant Promega Corporation to the petition for panel rehearing [71] filed by Appellants Applied Biosystems, LLC, Life Technologies Corporation and Invitrogen IP Holdings, Inc. in 13-1011, petition for en banc rehearing [71] filed by Appellants Applied Biosystems, LLC, Life Technologies Corporation and Invitrogen IP Holdings, Inc. in 13-1011. Service: 02/03/2015 by email. [214864]
02/06/2015	90	19 paper copies of the response [89] received from Cross-Appellant Promega Corporation. [215982]
02/09/2015	91	ORDER filed granting motion to file amicus brief on rehearing petition [77]. By: Court (Per Curiam). Service as of this date by Clerk of Court. [216059]
02/09/2015	92	AMICUS BRIEF FILED for Acushnet Company, Limelight Networks, Inc., Newegg, Inc., QVC, Inc. and SAS Institute Inc. [79]. Number of Pages: 8. Service: 01/28/2015 by email. Pursuant to ECF-10, filer is directed to file 16 copies of the brief in paper format. The paper copies of the brief should

DATE	NO.	PROCEEDINGS
		be received by the court on or before 2/11/15. [216062]
02/09/2015	93	Entry of appearance for Stacy O. Stitham as of counsel for Amici Curiae Acushnet Company, Limelight Networks, Inc., Newegg, Inc., QVC, Inc. and SAS Institute Inc. Service: 02/09/2015 by email. [216074]
02/11/2015	94	16 paper copies of the amicus Brief [92] received from Amici Curiae Acushnet Company, Limelight Networks, Inc., Newegg, Inc., QVC, Inc. and SAS Institute Inc. [216616]
02/24/2015	95	Entry of appearance for Peter J Brann as principal counsel for Amici Curiae Acushnet Company, Limelight Networks, Inc., Newegg, Inc., QVC, Inc. and SAS Institute Inc. Service: 02/24/2015 by email. [219704]
02/26/2015	96	ORDER filed denying [72] petition for panel rehearing filed by Promega Corporation. By: Merits Panel (Per Curiam). Service as of this date by Clerk of Court. [220138]
02/26/2015	97	ORDER filed denying [71] petition for panel rehearing; denying [71] petition for en banc rehearing filed by Applied Biosystems, LLC, Life Technologies Corporation and Invitrogen IP Holdings, Inc. By: En

DATE	NO.	PROCEEDINGS
		Banc (Per Curiam). Service as of this date by Clerk of Court. [220144]
03/06/2015	98	Mandate issued to the United States District Court for the Western District of Wisconsin. Service as of this date by Clerk of Court [222029] [13-1011, 13-1029, 13-1376]
05/04/2015	99	Notice from the Supreme Court of the United States granting the application for an extension of time to file a petition for writ of certiorari to and including June 26, 2015. [237781]
07/01/2015	100	Petition for writ of Certiorari filed on 06/26/2015 in the Supreme Court of the United States. Supreme Court #: 14-1538, Life Technologies Corporation v. Promega Corporation. [252850]
06/27/2016	101	The petition for writ of certiorari, [14-1538], filed on 06/26/2015, was Granted (limited to question 2 presented by the petition) on 06/27/2016. [346892]

US00RE37984E

(19) **United States**
(12) **Reissued Patent**
Jäckle et al.

(10) **Patent Number: US RE37,984 E**
(45) **Date of Reissued Patent: Feb. 11, 2003**

(54) **PROCESS FOR ANALYZING LENGTH POLYMORPHISMS IN DNA REGIONS**

(75) Inventors: **Herbert Jäckle**, Göttingen (DE); **Diethard Tautz**, Köln (DE)

(73) Assignee: **Max-Planck-Gesellschaft zur Forderung der Wissenschaften e.V.**, Gottingen (DE)

(21) Appl. No.: **09/591,383**

(22) Filed: **Jun. 9, 2000**

Related U.S. Patent Documents

Reissue of:

(64) Patent No.: **5,766,847**
Issued: **Jun. 16, 1998**
Appl. No.: **08/145,617**
Filed: **Nov. 4, 1993**

U.S. Applications:

(63) Continuation of application No. 07/681,494, filed as application No. PCT/EP89/01203 on Oct. 11, 1989, now abandoned.

(30) **Foreign Application Priority Data**

Oct. 11, 1988 (DE) 38 34 636

(51) **Int. Cl.**[7] **C12P 19/34**; C12Q 1/68; C07H 21/04

(52) **U.S. Cl.** **435/6**; 435/194; 435/91.02; 536/23.1; 536/24.3; 536/24.33

(58) **Field of Search** 435/6, 91.2, 194, 435/810; 536/22.1, 23.1, 24.3, 24.22

(56) **References Cited**

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Primary Examiner—Stephanie Zitomer
(74) *Attorney, Agent, or Firm*—Birch Stewart Kolasch & Birch LLP

(57) **ABSTRACT**

A process for analyzing length polymorphism in DNA regions wherein the following steps are carried out:

(a) annealing at least one primer pair to the DNA to be analyzed, wherein one of the molecules of the primer pair is substantially complementary to one of the complementary strands of the 5' or 3' flank of a simple or cryptically simple DNA sequence, and wherein the annealing occurs in such an orientation that the synthesis products obtained by a primer-controlled polymerisation reaction with one of said primers can serve as template for annealing the other primer after denaturation;

(b) primer-controlled polymerase chain reaction; and

(c) separating and analyzing the polymerase chain reaction products.

41 Claims, 6 Drawing Sheets

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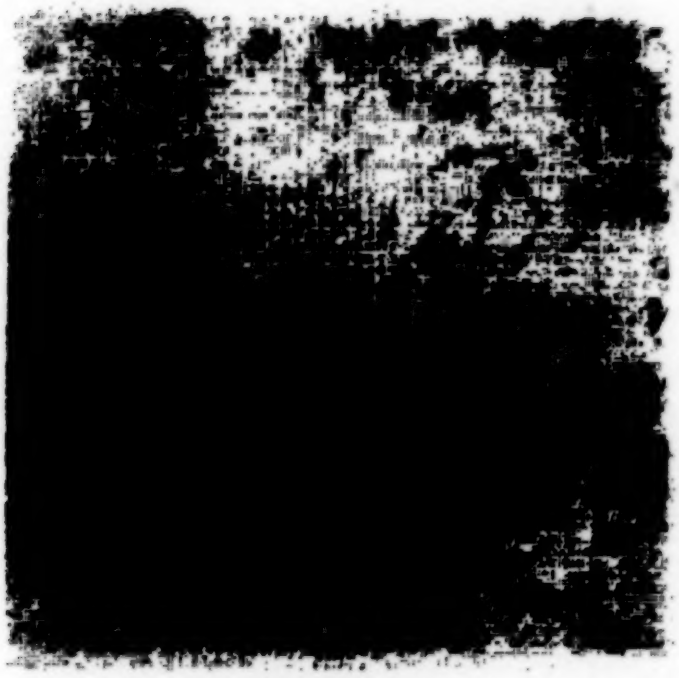

FIG. 1

TAAGCTTGGGAATCATCTCGCCGACGGGCAGCGATATGGGCATCATGCTCGCCCCGCCCC

AATCCTCGAAGAATAGTGCAATAATGCAAACGATATCACCCCAGCAACAGCAGCAGGCAGC

AGCAGCAGCAACAGCAAACATCAGCAGCAAGCAGCAGCAAGCAGCAGCAGCAGCAGC

202 nt 1 177 nt

AACAGCAGCAGCAACTCGGAGGCCTGGAGTTCGGTTCAGAGGGCTTGGACCTGAATGGAT

Hae III

TTTGTGGATCTCCGGGTAAGTGGTCACTCATGATGGACTCTATGGACTCGCTAACTAGCT

AACTAATCATTCTACCATCCCAACTTGCAGACTCATTTCACTCGGGTCAAATGAATCCGC

CCTCGATACAAAGTTCAAT

(SEQ ID NO:5)

FIGURE 2

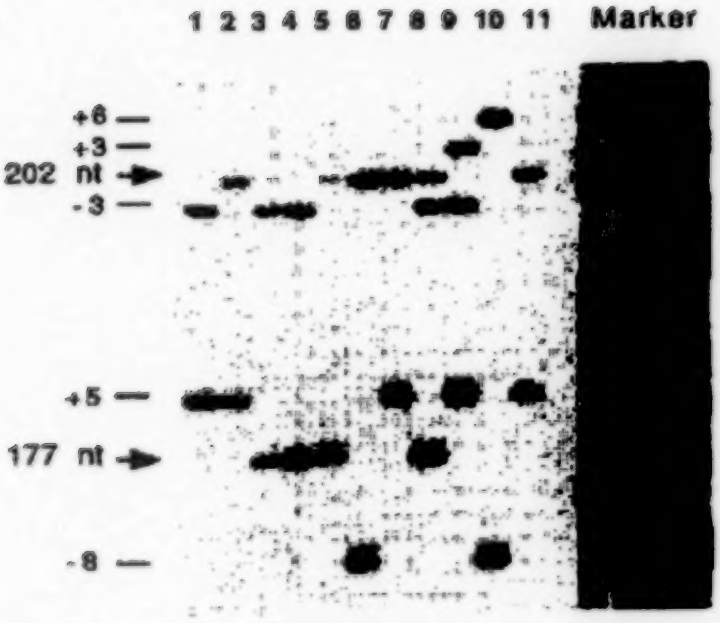

FIG.3

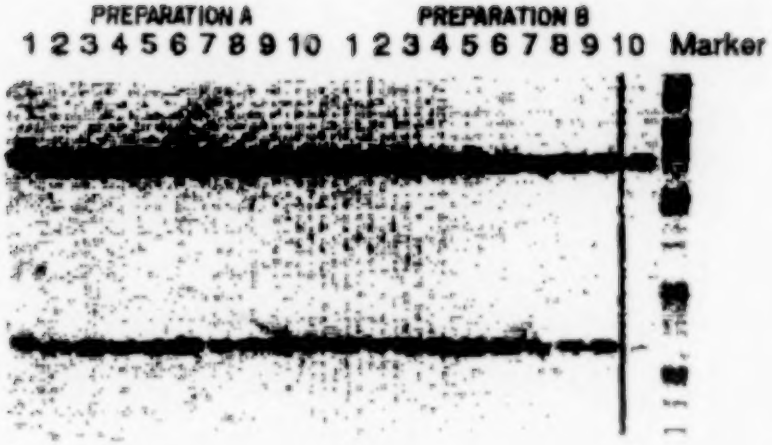
PREPARATION A
PREPARATION B
1 2 3 4 5 6 7 8 9 10 1 2 3 4 5 6 7 8 9 10 Marker

FIG.4

5'-CTCCCCCACACAAAGAAGTTCTGTTCTCTTCCCTCTACCTTGAT

GAATGCACTGTGA $(TG)_{15-23}$ACTCGTTCCCAGGTATGGAA-3'

(SEQ ID NO:6)

FIGURE 5

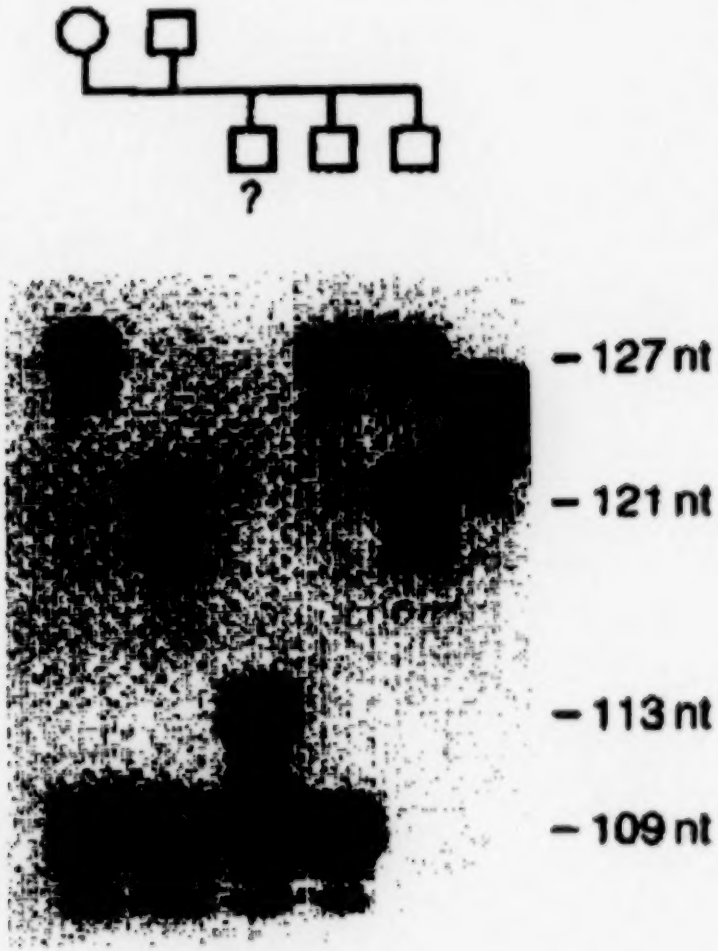

FIG.6

PROCESS FOR ANALYZING LENGTH POLYMORPHISMS IN DNA REGIONS

Matter enclosed in heavy brackets [ ] appears in the original patent but forms no part of this reissue specification; matter printed in italics indicates the additions made by reissue.

This application is *a reissue application of U.S. Pat. No. 5,766,847, issued Jun. 16, 1998 from application Ser. No. 08/145,617, filed Nov. 4, 1993, which is* a continuation of [application Ser.] *application* No. 07/681,494 filed on Jun. 10, 1991, now abandoned. *Application Ser. No. 07/681,494 is the national stage under 35 U.S.C. §371 of International Application PCT/EP89/01203, filed Oct. 11, 1989 and designating the United States.*

BACKGROUND OF THE INVENTION

1. Field of the Invention

The invention relates to a process for determining identity and kinship of organisms on the basis of length polymorphisms in the regions of simple or cryptically simple DNA sequences.

2. Description of Related Art

All usual processes for the determination of identity and kinship on the basis of DNA length polymorphisms are based on the use of restriction endonucleases. Thereby specific DNA fragments are prepared which are afterwards detected by means of hybridization methods. With these methods either variations in length which have formed between the corresponding recognition sites for restriction endonucleases or variations in length which, have formed due to the lack of certain restriction cleavage sites are analyzed. The first type of polymorphism analysis reveals the variation in length in so-called minisatellite regions (**3**, **4**, **4a**, **4b**) and/or in regions with specific simple DNA sequences (**5**). The second analysis in which restriction fragment length polymorphisms (RFLP) due to the presence or absence of a restriction site, are detected can be applied only in specific, empirically found cases and can substantially be used appropriately only in the analysis of genetic diseases.

The disadvantage of both known methods lies in the fact that a hybridization reaction has to be carried out to make the length polymorphic regions visible. This makes the methods time-consuming and expensive. Furthermore, a single analysis using the previous methods does normally not allow any definitive conclusion about the relationship of two samples to be made so that additionally a second independent analysis becomes necessary. Therefore, these processes are not very appropriate for serial examinations and routine testing. Furthermore, the described method are not suitable for automation.

Higuchi et al. (**5a**) describe a further process for analyzing a length polymorphic locus, comprising a primer-controlled polymerization reaction of certain mitochondrial DNA sequences. This process cannot be used for paternity determination due to the mitochondrial markers used thereby.

Thus, it is the object of the present invention to provide a method for analyzing length polymorphisms in DNA regions which is highly sensitive, achieves reliable results without being time-consuming, is furthermore appropriate for serial examinations and routine testing and can optionally also be carried out automatically.

According to the invention this problem is solved by providing a process for determining identity and kinship of

organisms on the basis of length polymorphisms in DNA regions, which process comprises the following steps:

(a) annealing at least one primer pair to the DNA to be analyzed, wherein one of the molecules of the primer pair is substantially complementary to one of the complementary strands of the DNA flanking a simple or cryptically simple DNA sequence on either the 5' or the 3' side, and wherein the annealing occurs in such an orientation that the synthesis products obtained by a primer-directed polymerization reaction with one of said primers can serve as template for annealing the other primer after denaturation;

(b) primer-directed polymerase chain reaction; and

(c) separating and analyzing the polymerase chain reaction products.

In this process the individual primer molecules of the primer pairs are annealed to the DNA region to be analyzed at a distance of 50 to 500 nucleotides apart so that they encompass it at the given distance. Thereby the DNA region to be analyzed is surrounded by the hybridization molecules of the primer pair.

The primer-directed chain reaction is known as such from EP-A2 0 200 362 (**1**), from EP-A1 0 237 362 (**1a**) and from (**2**). It refers to a process for amplification of specific DNA fragments in which a PCR (polymerase chain reaction) is carried out. In this process the specific amplification is achieved by using oligonucleotide primers flanking the target-molecule in an anti-parallel manner. Thereby in a template-dependent extension of the primers by a polymerase DNA fragments are synthesized which themselves are again available as templates for a new cycle of primer extension. The DNA synthesis is performed by heat denaturation of the starting molecules, followed by hybridization of the corresponding primers and by chain extension with a polymerase. By means of a further heat denaturation a following cycle is then performed. Thereby the specifically amplified region grows in an exponential way and finally a fragment detectable by normal gel electrophoresis is formed. The length of this fragment is determined by the length of the primers and the intermediate region and is similar or equal to the sum of the lengths of the primers and the intermediate region. The use of thermostable synthesis components allows control of the process by simple and easily automated heating and cooling cycles.

By "antiparallel flanking" of the target molecule by oligonucleotide primers one understands the hybridizing of one of both primers of a primer pair each to the complementary strands of the target molecule so that the 3' ends of the primer pair point at each other.

In (**15**) Marx describes different applications of the PCR process.

Rollo et al. describe in (**16**) the use of the PCR process for distinguishing between various species of the plant pathogenic fungus Plasma.

The use of simple and cryptically simple DNA sequences in the fragment of PCR processes for determining identity and kinship of organisms is not described in any of these references.

SUMMARY OF THE INVENTION

Simple and cryptically simple DNA sequences are repetitive components of all eukaryotic genomes which to some extent can be found also in prokaryotic genomes (**6–9**). Thereby simple DNA sequences comprise short DNA motifs containing at least one nucleotide and not more than approximately 6 to 10 nucleotides arranged as a dozen to

approximately one hundred tandem repeats. These simple DNA sequences have been found by hybridization with synthetic DNA sequences and by direct sequencing in all hitherto analyzed eukaryotic genomes and also in the human genome (8, 10). All possible permutations of short motifs can presumably be found therein in different frequency (9). Cryptically simple DNA sequences are characterized by a more than accidentally frequent, but irregularly direct repeat of short DNA motifs (9). Cryptically simple DNA sequences are normally only found indirectly in already sequenced DNA regions by means of a corresponding computer programme. They are, however, at least just as frequent or even more frequent than simple DNA sequences. The simple and cryptically simple DNA sequences are likely to have formed by genomic mechanisms having the tendency to duplicate once more already existing short duplications of any DNA sequence motifs or to partly delete in any DNA sequence motifs longer regions of already existing simple or cryptically simple DNA sequences (8–10). Therefore one can start from the assumption that these regions are usually length polymorphic. The process according to the invention is based on this length polymorphism.

Simple or cryptically simple DNA sequences that are suitable for the process according to the invention can be found with or without a computer programme in DNA sequences that are already known (9). A simple or cryptically simple DNA sequence is suitable for use in the method of the present invention if it has a length of approximately 20 to 300 nucleotides and if it is flanked by random sequences, i.e. DNA sequences without internal repeats. From the region of DNA sequences without internal sequence repeats fragments that flank the simple or cryptically simple DNA sequence are selected. Suitable complementary synthetic oligonucleotides are then prepared which can hybridize to the flanking DNA sequences. An oligonucleotide is suitable for this purpose if its nucleotide composition and its nucleotide sequence can be found most probably only once in the genome to be examined, thus being specific to the DNA region to be individually analyzed.

In the process according to the invention, preferably length polymorphisms of simple or cryptically simple DNA sequences are examined.

When examining length polymorphisms of simple or cryptically simple DNA sequences substantially composed of tri-nucleotide motifs, so-called "slippage"-artifacts are avoided. Slippage-artifacts are more frequently found, for example, in simple or cryptically simple DNA sequences composed of dinucleotide motifs. Thereby reaction products are formed which are shorter than the desired main product (cf. Example 4). These artificial bands are possibly difficult to distinguish from "real" bands which complicates the interpretation of the results. When using simple or cryptically simple tri-nucleotide sequences, these artifacts do not or only rarely occur (cf. Example 3).

In a particularly preferred embodiment of the process according to the invention the simple or cryptically simple DNA sequence is substantially composed of the trinucleotide motif 5'CAG-3' 5'CTG-3'.

In the process according to the invention two primer pairs are preferably employed. In a particularly preferred embodiment 2 to 50 primer pairs are employed.

Preferably the primers used in the process according to the invention have a length of 15 to 25 nucleotides.

In a preferred embodiment of the process according to the invention when using several primer pairs the individual primer pairs are selected in such a way that the corresponding specific polymerase chain reaction products of the individual primer pairs are separable into individual bands on a suitable gel.

In another preferred embodiment of the process according to the invention the detection of the specific polymerase chain reaction products is carried out by radioactive labelling or by non-radioactive labelling, e.g. with fluorescent dye-stuff.

The labelling of the oligonucleotide pairs can be carried out radioactively or with a fluorescent dyestuff, as described in (12).

Furthermore, kits with which the process according to the invention can be carried out are a subject matter of the present invention. The primers contained therein are optionally labelled radioactively, e.g. with ^{35}S or ^{14}C, or fluorescently.

The synthesis products obtained in the process according to the invention can be separated using high-resolution gel systems, such as usual sequencing gels. At the same time also the length of the synthesis products can be determined. Polymorphisms which are formed by insertions or deletions of individual or several motifs of the simple or cryptically simple DNA sequence are recognizable by an altered position of the synthesis products in the gel. With an appropriate selection of the primer pairs and with an appropriate resolution capacity of the gel system approximately 20 to 50 independent polymorphic regions can be simultaneously examined. Thus, the identity of an individual can be reliably ascertained due to the individual combination of length distributions of the synthesis products obtained.

If no appropriate simple or cryptically simple DNA sequences are known in the DNA regions to be examined, they can be identified as follows:

A genomic DNA to be examined is subjected to a partial restriction cleavage. Restriction enzymes are used that do normally not cleave in simple or cryptically simple DNA sequences. The DNA fragments obtained are cloned in a suitable vector, e.g. in lambda phage derivatives or in M13-phages and are then screened by usual methods for simple or cryptically simple DNA sequences; cf. (11). The probe molecules used are synthetic DNA molecules containing various permutations of simple or cryptically simple DNA sequences. Thus, hybridizing plaques can be identified. Then the recombinant DNA contained therein can be isolated and characterized by sequencing. The DNA sequence thus obtained can then be screened for DNA sequences which are suitable for the testing procedure according to the invention.

The process according to the invention was carried out with Drosophila-DNA as a model system. As simple and cryptically simple DNA sequences are present in all eukaryotic genomes and to some extent also in prokaryotic genomes, one can assume that the results achieved with the Drosophila model system can also be achieved in the analysis of other genomes, particularly in the examination of the human genome.

Therefore the process according to the invention is suitable for the determination of identity and kinship of organisms, for example of human beings.

In human beings paternity and forensic tests for establishing the identity of delinquents can be carried out with the process according to the invention, cf. also Example 4.

In addition to the determination of identity of individuals the process is also suitable to determine the course of

hereditary propagation of genetic diseases for which the locus is known and sequenced. For this purpose one or several simple or cryptically simple sequences are selected which are located in or next to the locus to be analyzed. The specific length pattern of these regions is correlated with the mutated locus, as is common practice with known RFLP-markers; cf. (14). With the families concerned on the basis of this information genetic advice can be given or prenatal diagnosis can be made in a manner analogous to that known for RFLP-markers. The use of the process according to the invention for this purpose makes sense especially because it is based on DNA regions which are polymorphic in all foreseeable probability whereas the RFLP-analysis is dependent on accidentally found variations which are often far away from the locus itself which reduces the certainty of diagnosis.

The process according to the invention is further suitable for determining polymorphisms in simple or cryptically simple DNA sequences of animals and plants. Therefore, in animal breeding, e.g. of horses, dogs or cattle, and kinship to high-grade breeding individuals can be reliably proved.

To sum up, it can be said that the advantage of the process according to the invention vis-a-vis the hitherto known processes lies in its broad applicability, rapid practicability and in its high sensitivity. The amplification step taken for the length polymorphic simple or cryptically simple DNA sequences in the process according to the invention makes it superfluous to take an independent ascertaining step, such as a subsequent hybridization reaction. Therefore the process according to the invention is particularly well suited for automation and for routine testing and serial examination.

BRIEF DESCRIPTION OF THE DRAWINGS

The Figures show:

FIG. 1: Hybridization of a Gene Library with a simple DNA sequence as probe molecule.

Approximately 20,000 independent phage clones were plated out on a 12 by 12 cm plate and hybridized with a probe molecule containing the simple trinucleotide sequence CAG/CTG. 300 to 400 positive signals are thus obtained. The positive signals are recognizable as blackening.

FIG. 2: Sequence (SEQ. ID NO. 5) of the region tested for polymorphism in Example 2.

The regions to which complementary oligonucleotides were synthesized are underlined with a wavy line. The region of the simple DNA sequence is underlined with a double line. The direct repeat of 8 nucleotides is marked with two arrows. The HaeIII-cleavage site is marked in italics.

FIG. 3: Analysis of the length variations of 11 wild type strains in Drosophila

The DNA sequences amplified by means of PCR and cleaved with HaeIII are shown in lanes 1 to 11. On the right side a sequencing reaction is shown serving as length marker. The position of the fragments to be expected is marked with arrows on the left side. The positions of the fragment classes additionally observed is marked with lines.

FIG. 4: Test for Reproducibility

Ten independent PCR-reaction mixtures using the DNA preparation "A" of the Drosophila strain No. 3 were applied on the left side, ten independent PCR-reaction mixtures using the DNA preparation "B" of the Drosophila strain No. 3 were applied on the right side. On the very right side marker fragments from a sequencing reaction are applied. All test bands observed are identical.

FIG. 5: Sequence (SEQ IN NO. 6) of the DNA region used in Example 4.

The regions to which complementary oligonucleotides were synthesized are underlined with a wavy line.

FIG. 6: Paternity analysis in human beings.

The DNA fragments amplified by means of PCR and separated on the gel are shown. In the first lane the DNA of the mother, in the following lanes the DNA of the father to be tested as well as of the three tested children have been applied. In the sixth lane (marked with "C") a control-DNA has been applied which is to indicate only the size categories. The main bands and their size categories are marked on the right side.

DETAILED DESCRIPTION OF THE INVENTION

The examples illustrate the invention.

EXAMPLE 1

Isolation of Clones Containing Simple DNA Sequences

Drosophila-DNA is completely cleaved with the restriction endonuclease EcoRI and the resulting fragments are cloned into the lambda vector 641. A more detailed description of the methods used can be found in (11). By this way a gene library is obtained of which about 20,000 phages are plated out. The corresponding independent plaques are transferred to a nitrocellulose filter and hybridized with a probe molecule containing the simple DNA sequence motif CAG/CTG.

The filters are hybridized and washed at 65° C. The hybridizing solution contains 5 × SSPE, 5 × Denhardt's solution, 0.1% sodium dodecyl sulfate (SDS) and approximately 1×10^6 cpm/ml of radioactively labelled (^{32}P) DNA as probe molecule. The wash solution contains 2 × SSPE and 0.1% SDS (the reaction product of Denhardt's solution and SSPE is described in (11)).

About 300 to 400 of the plaques formed show a positive signal; cf. FIG. 1. Some of these plaques are purified, DNA is isolated and sequenced. In the obtained DNA sequences regions can be identified containing the simple DNA sequence CAG/CTG; cf. (7).

EXAMPLE 2

Detection of Length Polymorphisms

For this experiment the DNA sequence illustrated in FIG. 2 and published in (13) was chosen. Two oligonucleotides with the following sequences were synthesized:

Oligonucleotide 1 (SEQ. ID No. 1): 5'-TAAGCTT GGGAATCA-3'

Oligonucleotide 2 (SEQ. ID No. 2): 5'-ATTGAAC TTTGTATC-3'

These DNA sequences are located immediately at the beginning or at the end of the sequence shown in FIG. 2. For use as primers the synthesized oligonucleotides are labelled with ^{32}P at their 5' end. Then a PCR reaction with the labelled primers is carried out. On the whole 20 cycles are carried out by denaturating at 95° C. for 90 seconds, hybridizing at 45° C. for 90 seconds and then synthesizing at 72° C. for 120 seconds. As DNAs to be examined the genomic DNAs of 11 wild type strains of Drosophila melanogaster from various regions all over the world are employed. These Drosophila wild type strains originally are

descendants of individual fertilized females and have been collected during the last 10 years. After the PCR reaction the amplified fragments are cleaved with the restriction endonuclease HaeIII. This should normally yield two fragments having a length of 202 and 177 nucleotides, respectively. This step is normally not necessary for routine experiments. Here it only serves to refine the analysis. The resulting fragments are separated on a 5% sequencing gel, the gel is subsequently dried and an X-ray film is exposed to the dried gel. Both DNA fragments expected show a marked polymorphism in the various Drosophila wild type strains. The 202 nucleotide fragment which contains the simple DNA sequence shows four different size categories; see FIG. 3. These size categories are shifted by three nucleotides each. Starting from frameshifts within the repeat of the trinucleotides this is to be expected. In three cases two different bands appear at the same time; cf. FIG. 3, lanes 5, 8 and 9. This can be explained by the fact that in diploid organisms each locus is to be found twice and can be represented by different alleles (so-called balanced polymorphism). The band of the 177 nucleotide fragment shows three different size categories being 5 or 8 nucleotides apart; cf. FIG. 3. The band which is shorter by 8 nucleotides presumably resulted from a deletion of the repeat of 8 nucleotides labelled in the DNA sequence. The origin of the longer band is unclear. These deletions or insertions correspond to those that can be expected in the region of a cryptically simple DNA sequence.

The majority of the strains examined in this simple experiment are readily distinguishable from one another. Only strains 2, 7 and 11 as well as 3 and 4 cannot be distinguished from each other. To distinguish these strains one would therefore employ further primer pairs. For example, 20 to 50 independent DNA regions could be tested, in order to allow a definite identification. As the size categories of the fragments of the individual Drosophila wild type strains are homogenous per se, one has to start from the assumption that the polymorphisms observed are not so frequent that it would no longer be possible to ascertain a kinship. The Drosophila wild type strains all descend from one single original pair and the DNA of several 100 individuals was combined for the test. If a change of the pattern had taken place within these "families", one should expect more than maximal two bands. This is, however, not the case here. From this follows that the length categories observed are stable for at least some dozens of generations.

EXAMPLE 3

Test for Reproducibility

The variations in length observed could also be caused by polymerase errors during the experiment. In order to exclude this possibility and to simultaneously prove the general reproducibility, the experiment carried out in Example 2 is repeated with two different DNA preparations of the Drosophila strains No. 3 in 10 independent reaction mixtures. It can be taken from FIG. 4 that all reaction mixtures lead to the same bands. Similar experiments were also carried out for different loci. In no case, however, a change of the band length could be observed. This shows that the process is reliably reproducible.

EXAMPLE 4

Paternity Test in Human Beings

A primer pair is used which flanks a sequential region from the autosomal human heart muscle actin gene. This sequence contains a simple sequence with a GT/CA dinucleotide repeat structure (FIG. 5). As primers the following oligonucleotides are used:

Primer 1 (SEQ ID No. 3): 5'-CTCCCCC ACACAAAGAAG-3'

Primer 2 (SEQ ID No. 4): 5'-TTCCATA CCTGGGAACGA-3'

Primer 2 is labelled at its 5' end with ^{32}P and both oligonucleotides are then used for a PCR reaction. On the whole 25 cycles with a denaturation phase of 1 min. at 94° C., an hybridizing phase of 2 min. at 45° C. and a synthesis phase of 1 min at 72° C. (last synthesis phase for 5 min) are carried out. The reaction products are then separated on a 6% denaturating acrylamide gel, the gel is dried and exposed. The result can be seen in FIG. 6. Each of the tested individuals shows two main bands (for explanation of the further bands, see below), i.e. it is heterozygous for different length variants of this locus. Mother and father have the length variant "109 nt" in common, they do, however, differ in the other variant, with the mother having a "127 nt" and the father a "121 nt" variant. The children must have inherited one of each of these variants from father and mother. For two of the children this is actually the case, whereas the third child (labelled with "?") shows a new "113 nt" variant, which can neither be derived from the mother nor from the tested father. Therefore, one has to assume that this child had another father.

In lane "C" a cloned control-DNA having only one length variant has also been treated. Like the other samples it shows a main band and several secondary bands. The secondary bands are caused by PCR artifacts formed during the amplification. In this context, there are two types of artifacts. The first type results from the fact that the Taq-polymerase has the tendency to attach an additional nucleotide to the completely synthesized DNA strand. Thereby the band is formed which runs a nucleotide above the main band. This effect varies from reaction to reaction, but does not disturb the analysis of the band pattern. A second type of artifact is formed by "slippage" during the amplification process. This leads to the bands which can be seen at the dinucleotide distance below the main bands. These artifact bands could have a disturbing effect on the analysis, if they overlap actual length variants.

Simple sequences with trinucleotide repeat motifs do not show these artifact bands (cf. Example 2), as with these sequences "slippage" occurs less frequently during amplification.

LITERATURE

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SEQUENCE LISTING

(1) GENERAL INFORMATION:

(iii) NUMBER OF SEQUENCES: 6

(2) INFORMATION FOR SEQ ID NO: 1:

(i) SEQUENCE CHARACTERISTICS:
(A) LENGTH: 15 base pairs
(B) TYPE: nucleic acid
(C) STRANDEDNESS: single
(D) TOPOLOGY: linear

(ii) MOLECULE TYPE: DNA (genomic)

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 1:

TAAGCTTGGG AATCA 15

(2) INFORMATION FOR SEQ ID NO: 2:

(i) SEQUENCE CHARACTERISTICS:
(A) LENGTH: 15 base pairs
(B) TYPE: nucleic acid
(C) STRANDEDNESS: single
(D) TOPOLOGY: linear

(ii) MOLECULE TYPE: DNA (genomic)

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 2:

ATTGAACTTT GTATC 15

(2) INFORMATION FOR SEQ ID NO: 3:

(i) SEQUENCE CHARACTERISTICS:
(A) LENGTH: 18 base pairs
(B) TYPE: nucleic acid
(C) STRANDEDNESS: single
(D) TOPOLOGY: linear

(ii) MOLECULE TYPE: DNA (genomic)

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 3:

CTCCCCCACA CAAAGAAG 18

(2) INFORMATION FOR SEQ ID NO: 4:

(i) SEQUENCE CHARACTERISTICS:
(A) LENGTH: 18 base pairs
(B) TYPE: nucleic acid
(C) STRANDEDNESS: single
(D) TOPOLOGY: linear

(ii) MOLECULE TYPE: DNA (genomic)

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 4:

TTCCATACCT GGGAACGA 18

-continued

(2) INFORMATION FOR SEQ ID NO: 5:

(i) SEQUENCE CHARACTERISTICS:
(A) LENGTH: 379 base pairs
(B) TYPE: nucleic acid
(C) STRANDEDNESS: single
(D) TOPOLOGY: linear

(ii) MOLECULE TYPE: DNA (genomic)

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 5:

TAAGCTTGGG AATCATCTCG CCGACGGGCA GCGATATGGG CATCATGCTC GCCCCGCCCC 60

AATCCTCGAA GAATAGTGCA ATAATGCAAA CGATATCACC CCAGCAACAG CAGCAGCAGC 120

AGCAGCAGCA ACAGCAGCAA CATCAGCAGC AGCAACAGCA GCAGCAACAG CAGCAGCAGC 180

AACAGCAGCA GCAACTCGGA GGCCTGGAGT TCGGTTCAGA GGGCTTGGAC CTGAATGGAT 240

TTTGTGGATC TCCGGGTAAG TGGTCACTCA TGATGGACTC TATGGACTCG CTAACTAGCT 300

AACTAATCAT TCTACCATCC CAACTTGCAG ACTCATTTCA CTCGGGTCAA ATGAATCCGC 360

CCTCGATACA AAGTTCAAT 379

(2) INFORMATION FOR SEQ ID NO: 6:

(i) SEQUENCE CHARACTERISTICS:
(A) LENGTH: 107 base pairs
(B) TYPE: nucleic acid
(C) STRANDEDNESS: single
(D) TOPOLOGY: linear

(ii) MOLECULE TYPE: DNA (genomic)

(ix) FEATURE:
(A) NAME/KEY: repeat_region
(B) LOCATION: 58..87
(D) OTHER INFORMATION: /rpt_type= "other"
/label= tg_DINUCLEOTIDE

(ix) FEATURE:
(A) NAME/KEY: -
(B) LOCATION: 58..87
(D) OTHER INFORMATION: /label= TG_DINUCLEOTIDE
/note= "THIS STRETCH OF TG DINUCLEOTIDES RANGES IN
SIZE FROM 15 DINUCLEOTIDES TO 25 DINUCLEOTIDES
((TG)15 TO 25)"

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 6:

CTCCCCCACA CAAAGAAGTT CTGTTCTCTT CCCTCTACCT TGATGAATGC ACTGTGATGT 60

GTGTGTGTGT GTGTGTGTGT GTGTGTGACT CGTTCCCAGG TATGGAA 107

We claim:

1. A method for determining length polymorphisms in a simple or cryptically simple sequence in one or more DNA regions of one or more subjects, which comprises:

a) providing at least one DNA sample, comprising a template DNA having a nucleotide sequence that includes a simple or cryptically simple sequence *comprising trinucleotide repeats*, from at least one subject;

b) annealing at least one primer pair to the template DNA of each of said DNA samples, wherein said primer pair is composed of a first primer complementary to a nucleotide sequence flanking the simple or cryptically simple DNA sequence on the 5' side of said simple or cryptically simple DNA sequence and a second primer complementary to a nucleotide sequence flanking the simple or cryptically simple DNA sequence on the 3' side of said simple or cryptically simple DNA sequence, wherein said first and second primers each anneal to a single site in said template DNA and the sequence of the template DNA between the sites where said primers anneal is 50 to 500 nucleotides in length;

c) performing at least one primer-directed polymerase chain reaction upon said template DNA having said primers annealed thereto, so as to form at least one polymerase chain reaction product;

d) separating the products of each polymerase chain reaction according to their lengths; *and*

e) analyzing the *lengths of the* separated products to determine the length polymorphisms of the simple or cryptically simple sequences.

[2. The method according to claim 1, wherein each simple or cryptically simple DNA sequence comprises at least one trinucleotide motif.]

3. The method according to claim 1, wherein [each simple or cryptically simple DNA sequence contains] the *trinucleotide repeat* motif *is* CAG/CTG.

4. The method according to claim 1, wherein at least 2 primer pairs are used.

5. The method according to claim 1, wherein between 2 and 50 primer pairs are used.

6. The method according to claim 1, wherein each of the primers has a length ranging between 15 and 25 nucleotides.

7. The method according to claim [2] *1*, wherein the annealing position of the primers of each pair is selected such that each of the primer-directed polymerase chain reaction products are separable one from the other as individual bands on a suitable electrophoretic gel.

8. The method according to claim 1, wherein the product of each primer-directed polymerase chain reaction is labelled by a radioactive label.

9. The method according to claim 1, wherein the product of each primer-directed polymerase chain reaction is labelled by a non-radioactive label.

10. The method according to claim 9, wherein said non-radioactive label is a fluorescent label.

11. The method according to claim 1, wherein said simple or cryptically simple DNA sequence is located adjacent to or within a genetically defined locus such that said simple or cryptically simple DNA sequence can serve as a marker for said locus.

12. A kit for performing the method of claim 1, comprising:

a) at least one vessel containing an equimolar mixture of primers constituting between 1 and 50 of said primer pairs;

b) a vessel containing a polymerizing enzyme suitable for performing a primer-directed polymerase chain reaction;

c) a vessel containing the deoxynucleotide triphosphates adenosine, guanine, cytosine and thymidine;

d) a vessel containing a buffer solution suitable for performing a polymerase chain reaction, or a concentrate of said buffer solution;

e) a vessel containing a template DNA that has a nucleotide sequence including a simple or cryptically simple sequence for assaying positive performance of the method, *wherein each simple or cryptically simple DNA sequence comprises at least one trinucleotide motif.*

13. The kit of claim 12, wherein at least one primer of each primer pair is labelled with a fluorescent or a radioactive label.

14. The method of claim 1, wherein the kinship of at least two subjects is determined by comparing length polymorphisms determined in step (e).

15. A method for analyzing length polymorphisms in at least one locus in an DNA sample obtained from at least one subject, wherein said DNA sample comprises a DNA template having at least one locus comprising a simple or cryptically simple DNA sequence, said method comprising:

a) annealing said DNA template with at least one pair of primers, wherein said primer pair is composed of a first primer complementary to a nucleotide sequence flanking said simple or cryptically simple DNA sequence on the 5' side of said simple or cryptically simple DNA sequence and a second primer complementary to a nucleotide sequence flanking the simple or cryptically simple DNA sequence on the 3' side of said simple or cryptically simple DNA sequence, wherein said first and second primers each anneal to a single site in said DNA template and wherein the annealing sites are separated by 50 to 500 nucleotides of template DNA;

b) performing at least one primer-directed polymerase chain reaction upon said template DNA having said primers annealed thereto, so as to form at least one polymerase chain reaction product;

c) separating the products of each polymerase chain reaction according to their lengths; and

d) analyzing the lengths of the separated products to determine the length polymorphisms of said simple or cryptically simple sequences;

wherein said simple or cryptically simple sequence has a repeat length of 3 to 10 nucleotides.

16. The method of claim 15, wherein said simple or cryptically simple sequence has a repeat length of 3 to 6 nucleotides.

17. The method of claim 15, wherein said simple or cryptically simple sequence has a repeat length of 3 nucleotides.

18. The method of claim 15, wherein at least two primer pairs are used.

19. The method of claim 15, wherein the kinship of at least two subjects is determined by comparing the length polymorphisms determined in step (d).

20. The method of claim 16, wherein the kinship of at least two subjects is determined by comparing the length polymorphisms determined in step (d).

21. The method of claim 15, further comprising (e) comparing the length polymorphisms determined in step (d) to numerical values of length polymorphisms for said at least one locus.

22. The method of claim 16, further comprising (e) comparing the length polymorphisms determined in step (d) to numerical values of length polymorphisms for said at least one locus.

23. The method of claim 15, wherein 2 to 50 primer pairs are used.

24. The method according to claim 15, wherein each of the primers has a length of 15 to 25 nucleotides.

25. The method according to claim 15, wherein the annealing position of the primers of each pair is selected such that each of the products of the primer-directed polymerase chain reaction is separable one from the other as individual bands on a suitable electrophoretic gel.

26. The method according to claim 15, wherein the product of each primer-directed polymerase chain reaction is labeled by a radioactive label.

27. The method according to claim 15, wherein the product of each primer-directed polymerase chain reaction is labeled by a non-radioactive label.

28. The method according to claim 27, wherein said non-radioactive label is a fluorescent label.

29. The method according to claim 15, wherein said simple or cryptically simple DNA sequence is located adjacent to or within a genetically defined locus such that said simple or cryptically simple DNA sequence can serve as a marker for said locus.

30. The method of claim 15, wherein said simple or cryptically simple sequence has a repeat length of 3 to 6 nucleotides, each of said primers has a length of 15 to 25 nucleotides and the kinship of at least two subjects is determined by comparing the length polymorphisms determined in step (d).

31. The method of claim 15, wherein said simple or cryptically simple sequence has a repeat length of 3 to 6 nucleotides, each of said primers has a length of 15 to 25 nucleotides and wherein 2 to 50 primer pairs are used.

32. The method of claim 29, wherein said simple or cryptically simple sequence has a repeat length of 3 to 6 nucleotides, each of said primers has a length of 15 to 25 nucleotides and 2 to 50 primer pairs are used.

33. The method of claim 30, wherein said simple or cryptically simple sequence has a repeat length of 3 nucleotides.

34. The method of claim 32, wherein said simple or cryptically simple sequence has a repeat length of 3 nucleotides.

35. A kit for performing analysis of polymorphism in simple or cryptically simple sequences, comprising:

a) at least one vessel containing a mixture of primers constituting 1 to 50 primer pairs; wherein each of said primer pairs is composed of a first primer complementary to a nucleotide sequence flanking said simple or cryptically simple DNA sequence on the 5' side of said simple or cryptically simple DNA sequence and a second primer complementary to a nucleotide sequence flanking the simple or cryptically simple DNA sequence on the 3' side of said simple or cryptically simple DNA sequence; wherein said first and second primers each anneal to a single site in said DNA template and wherein the annealing sites are separated by 50 to 500 nucleotides of template DNA;

b) a vessel containing a template DNA that has a nucleotide sequence including a simple or cryptically simple sequence for assaying positive performance of the method.

36. The kit of claim 35, wherein at least one primer of each primer pair is labeled with a fluorescent or a radioactive label.

37. The kit of claim 35, wherein said simple or cryptically simple sequence has a repeat length of 3 to 6 nucleotides and each of said primers has a length of 15 to 25 nucleotides.

38. The kit of claim 35, wherein said simple or cryptically simple DNA sequence is located adjacent to or within a genetically defined locus such that said simple or cryptically simple DNA sequence can serve as a marker for said locus.

39. The kit of claim 38, wherein at least one primer of each primer pair is labeled with a fluorescent or a radioactive label.

40. A method for determining length polymorphisms in a simple or cryptically simple sequence in one or more DNA regions of one or more subjects, which comprises:

a) providing at least one DNA sample, comprising a template DNA consisting essentially of a nucleotide sequence that includes i) a simple or cryptically simple sequence having a trinucleotide repeat motif and ii) nucleotide sequences flanking the simple or cryptically simple sequence, from at least one subject;

b) annealing at least one primer pair to the template DNA of each of said DNA samples, wherein said primer pair is composed of a first primer complementary to the nucleotide sequence flanking the simple or cryptically simple DNA sequence on the 5' side of said simple or cryptically simple DNA sequence and a second primer complementary to the nucleotide sequence flanking the simple or cryptically simple DNA sequence on the 3' side of said simple or cryptically simple DNA sequence; wherein said first and second primers each anneal to a single site in said template DNA and the sequence of the template DNA between the sites where said primers anneal is 50 to 500 nucleotides in length;

c) performing at least one primer-directed polymerase chain reaction upon said template DNA having said primers annealed thereto, so as to form at least one polymerase chain reaction product;

d) separating the products of each polymerase chain reaction according to their lengths;

e) analyzing the lengths of the separated products to determine the length polymorphisms of the simple or cryptically simple sequences.

41. A method for analyzing polymorphism in at least one locus in an DNA sample comprising a DNA template, said method comprising:

a) annealing said DNA template with at least one pair of primers, wherein said primer pair is composed of a first primer complementary to a nucleotide sequence flanking said simple or cryptically simple DNA sequence on the 5' side of said simple or cryptically simple DNA sequence and a second primer complementary to a nucleotide sequence flanking the simple or cryptically simple DNA sequence on the 3' side of said simple or cryptically simple DNA sequence; wherein said first and second primers each anneal to a single site in said DNA template and wherein the annealing sites are separated by 50 to 500 nucleotides of template DNA;

b) performing at least one primer-directed polymerase chain reaction upon said template DNA having said primers annealed thereto, so as to form at least one polymerase chain reaction product;

c) separating the products of each polymerase chain reaction product according to their lengths; and

d) analyzing the lengths of the separated products to determine the length polymorphisms of said simple or cryptically simple sequences,

wherein said DNA template includes at least one sequence consisting essentially of a simple or cryptically simple DNA sequence having a repeat motif length of 3 to 10 nucleotides and nucleotide sequences flanking said simple or cryptically simple DNA sequence effective for annealing said at least one pair of primers.

42. A kit for analyzing polymorphism in at least one locus in an DNA sample, comprising:

a) at least one vessel containing a mixture of primers constituting between 1 and 50 of said primer pairs;

b) a vessel containing a polymerizing enzyme suitable for performing a primer-directed polymerase chain reaction;

c) a vessel containing the deoxynucleotide triphosphates adenosine, guanine, cytosine and thymidine;

d) a vessel containing a buffer solution for performing a polymerase chain reaction;

e) a vessel containing a template DNA comprising i) a simple or cryptically simple nucleotide sequence having a repeat motif length of 3 to 10 nucleotides and ii) nucleotide sequences flanking said simple or cryptically simple nucleotide sequence that are effective for annealing at least one pair of said primers, for assaying positive performance of the method.

* * * * *

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

10-cv-281-bbc

PROMEGA CORPORATION,

Plaintiff,

and

MAX-PLANCK-GESELLSCHAFT zur
FORDERUNG der WISSENSCHAFTEN E.V.,

Involuntary Plaintiff,

v.

LIFE TECHNOLOGIES CORPORATION,
INVITROGEN IP HOLDINGS, INC. and
APPLIED BIOSYSTEMS, LLC,

Defendants.

OPINION AND ORDER

* * * *

it is entitled to judgment as a matter of law on this issue. "'[W]illful' action is quintessentially a question of fact, for it depends on findings of culpable intent and deliberate or negligent wrongdoing." *Biotec Biologische Naturverpackungen GmbH & Co. KG v. Biocorp, Inc.*, 249 F.3d 1341, 1356 (Fed. Cir. 2001). In fact, plaintiff cites no cases in which a court concluded that the plaintiff was entitled to summary judgment on willfulness. Perhaps more important, plaintiff's argument on willfulness is undeveloped, making up a page of their opening brief and consisting of little more than a few quotations from documents prepared by

one employee of defendants. This is insufficient to show as a matter of law that plaintiff is entitled to a finding of willfulness.

ORDER

IT IS ORDERED that

1. The motion for partial summary judgment filed by defendants Life Technologies Corporation, Invitrogen IP Holdings, Inc. and Applied Biosystems, LLC, dkt. #234, is GRANTED with respect to plaintiff Promega Corporation's claim of infringement of claims 25 and 27-31 of U.S. Patent No. 5,843,660 and defendants' counterclaims for noninfringement of the same claims. Plaintiff's complaint is DISMISSED as to those claims. Defendants' motion is DENIED in all other respects.

2. Plaintiff's motion for summary judgment, dkt. #227, is GRANTED with respect to the following claims of infringement:

- AmpF1STR COfiler PCR Ampliflication Kit infringes claims 23 and 27 of U.S. Patent No.6,221,598 and claim 42 of U.S. Patent No. Re 37,984;
- AmpF1STR Profiler PCR Amplification Kit infringes claims 10, 23-24, 27 and 33 of the '598 patent and claim 42 of the '984 patent;
- AmpF1STR Identifiler PCR Amplification Kit infringes claims 10, 23-24 and 27 of the '598 patent, claims 18-19 and 21-23 of U.S. Patent No. 6,479,235, claim 5 of U.S. Patent No. 7,008,771 and claim 42 of the '984 patent;
- AmpF1STR Profiler Plus PCR Amplification Kit infringes claim 42 of the '984 patent; and

- AmpF1STR Yfiler PCR Amplification Kit infringes claim 42 of the '984 patent.

The motion is DENIED as to all other claims of infringement and inducing infringement.

2. Plaintiff's motion for summary judgment, dkt. #227, is GRANTED with respect to defendants' affirmative defenses and counterclaims that the '235, '598, '660 and '771 patents are invalid because they are anticipated, obvious or not enabled. Plaintiff's motion is DENIED with respect to its claim of willfulness.

3. Plaintiff's motion to disregard facts not included in the proposed findings of fact, dkt. #262, is GRANTED. Plaintiff's motion for leave to file a reply brief in support of that motion, dkt. #293, is DENIED as unnecessary.

Entered this 29th day of November, 2011.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

10-cv-281-bbc

PROMEGA CORPORATION,

Plaintiff,

and

MAX-PLANCK-GESELLSCHAFT zur
FORDERUNG der WISSENSCHAFTEN E.V.,

Involuntary Plaintiff,

v.

LIFE TECHNOLOGIES CORPORATION,
INVITROGEN IP HOLDINGS, INC. and
APPLIED BIOSYSTEMS, LLC,

Defendants.

OPINION and ORDER

* * * *

12. Plaintiff's motion to "expand summary judgment ruling to new products," dkt. #373, is GRANTED as unopposed. The order dated November 29, 2011, dkt. #345, is AMENDED to grant summary judgment to plaintiff with respect to the following claims of infringement:

a. AB Minifiler PCR Amplification Kit infringes claim 42 of the '984 Patent;

b. AB SGM Plus PCR Amplification Kit infringes claim 42 of the '984 Patent;

c. AB SEfiler Kit infringes claim 42 of the '984 Patent;

d. AB SEfiler Plus Kit infringes claim 42 of the '984 Patent;

e. NGM PCR Amplification Kit (1000 and 200) infringes claim 42 of the '984 Patent;

f. NGM SElect Kit infringes claim 42 of the '984 Patent;

g. Identifiler Plus Kit infringes claim 42 of the '984 Patent, claim 5 of the '771 Patent, claims 18, 19, 21, 22 and 23 of the '235 Patent, claims 10, 23, 24, 27 and 33 of the '598 Patent;

h. Identifiler Direct Kit infringes claim 42 of the '984 Patent, claim 5 of the '771 Patent, claims 18, 19, 21, 22 and 23 of the '235 Patent, claims 10, 23, 24, 27 and 33 of the '598 Patent;

i. AB Green I PCR Amplification Kit infringes claim 42 of the '984 Patent and claims 23 and 27 of the '598 patent;

j. Blue PCR Amplification Kit infringes claim 42 of the '984 Patent; and

k. COfiler + Profiler Plus Kit infringes claim 42 of the '984 and claims 23 and 27 of the '598 Patent.

* * * *

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

10-cv-281-bbc

PROMEGA CORPORATION,

Plaintiff,

and

MAX-PLANCK-GESELLSCHAFT zur
FORDERUNG der WISSENSCHAFTEN E.V.,

Involuntary Plaintiff,

v.

LIFE TECHNOLOGIES CORPORATION,
INVITROGEN IP HOLDINGS, INC. and
APPLIED BIOSYSTEMS, LLC,

Defendants.

ORDER

The parties have agreed that, under the summary judgment opinion, dkt. #345, the Profiler Plus ID infringes claim 42 of U.S. Patent No. Re 37,984. Accordingly, IT IS ORDERED that the order dated November 29, 2011, dkt. #345, is AMENDED to grant summary judgment to plaintiff Promega Corporation with respect to infringement of that product and claim.

Entered this 6th day of February, 2012.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

10-CV-281

PROMEGA CORPORATION,

Plaintiff,

MAX-PLANCK-GESELLSCHAFT ZUR FORDERUNG DER WISSENSCHAFTEN E.V.,

Involuntary Plaintiff,

v.

LIFE TECHNOLOGIES CORPORATION, INVITROGEN IP HOLDINGS, INC. and APPLIED BIOSYSTEMS, LLC,

Defendants.

Madison, Wisconsin
February 7, 2012
11:00 a.m.

VOLUME 2-B

STENOGRAPHIC TRANSCRIPT OF SECOND DAY OF JURY TRIAL MORNING SESSION HELD BEFORE THE HONORABLE BARBARA B. CRABB

* * * *

[2] INDEX

PLAINTIFF'S WITNESSES JACK BALLANTYNE

EXAMINATION Direct by Mr. Carroll

PAGES 11-79

* * * *

[34] [A.] . . . And this method is called the *polymerase chain reaction* or PCR. And basically it's an important method by which we can just make copies.

We can take DNA from a sample from any source and we can basically make many many copies of them. We often may refer to this as *molecular Xeroxing*. You know, you're taking – you're Xeroxing the molecules. You're making many many copies. In fact we can make billions of copies of DNA just from a single molecule.

Q. Why would we want to do this as part of the technology?

A. We want to do this as part of the technology because we want to basically create enough DNA to be able to analyze it using biochemistry and chemistry. We just need to amplify. It's called *amplification* as well. It's a method by which we can create enough material to analyze. But at the same time we do a bit of trickery. We can, during this process of increasing the number of copies, we can incorporate some reporter molecules into the newly-formed DNA that we can then identify later on [35] in our analysis.

Q. I think I have a slide of that coming up. But before we go there, can you relate the significance in this slide, Doctor, of the two strands we talked about in the process of what you call a *molecular Xeroxing*, the copying?

A. Yes. What happens in this process, which basically, as I said, uses the basic machinery that nature uses — and I think earlier you did hear the term *DNA polymerase,* an enzyme, a catalyst, that's found in all cells — we will use this in the test tube to create these new molecules of DNA during this molecular Xeroxing process.

So basically, what happens, we can take one molecule of DNA. What happens during this process, this PCR process, one cycle of this process will create two molecules. And what we do is we then do another, a third cycle, and then we double that from two to four, and then we double that four to eight, eight to 16, 16 to 32, and so on, depending on the number of cycles we want. So we can create large numbers of molecules very very quickly by just increasing the numbers of cycle.

* * * *

[36] [A.] . . . And this glove-like structure you see here is a DNA polymerase. This is the polymerase that's going to make the new DNA. So on the left-hand side here you have the DNA that's been made, double helix, and we're going to make — this DNA polymerase is going to help to make the new DNA on this right-hand side here.

In fact what you see is that the building blocks of DNA are being, because we have to use building blocks to make the DNA, you can see that as the new building blocks are being added to the new DNA by the DNA polymerase, a chemical reaction is taking place. That's why you see the light flashing there.

[37] Q. And in this process you end up making a copy of that one strand of DNA, so now you have two?

A. Yes.

Q. Thank you, Doctor. Let's go back to the slide that shows the whole process. When you said that you're doing this molecular Xeroxing and you just keep repeating it, the process that we saw in the video then would go on and on for each set of strands?

A. Yes. The video just showed one strand of DNA. Of course this will go on. First of all, normally we would stop with one strand. And, also, depending on the number of cycles, we then have more and more strands to use to make more copies again. So obviously if we have one copy, we can make two. If we have eight copies, we can make 16. So the further along we are in the cycle, the more of the DNA we have to make new copies. So it's like an amplification reaction. Its often termed *amplification* because we increase the numbers dramatically over time.

Q. And is this a key step in the technology we are going to be talking about today?

A. Yes.

* * * *

[40] Q. Doctor, I'm going to try to put everything together now for the jury in the next slide. Can you talk about using that polymerase reaction, that molecular Xeroxing, together with the particular STRs that you want to amplify and explain how that's done.

A. Yes. So what we have — what this again shows is the same STR that we just described, the 7 repeat unit — see the AATG, AATG, et cetera, that's the 7 — and here's the 8.

So in terms of how this works, in terms of the molecular Xeroxing, requires some reagents, some chemicals that we need to add other than the DNA

polymerase. And there are reagents are chemicals that we call *primers* that are absolutely critical to this whole procedure. And these primers are basically pieces of DNA, basically the other strand of the spaghetti strand, small fragments of DNA that are made in a lab. They are synthesized in a lab and we can add these primers to the actual PCR reaction, so to speak.

[41] Q. Is that the trick that gets you to amplify just what you want?

A. So we have a couple of tricks. One is to use these primers. They are called *primers*. One is recognized as a piece of DNA, just one side of this STR, and the other piece recognizes the DNA on the other side of the STR we are going to Xerox.

* * * *

[50] A. Yes. If you remember from the slides that how do we make new DNA from one copy being more DNA? Well, we need certain substances, chemicals. DNA polymerase, we need DNA polymerase.

Q. And that's what we saw on the video?

A. Yes. We need the DNA polymerase to make the DNA. You need the building blocks of DNA to make new DNA, so we need to have that in our kits. We also need to have, because we're doing biochemistry, we need to have instead of water, we need to have salt and some other substances called a *buffer* just because the chemical reaction can't take place in just simply water, all right?

Q. And are these in the boxes?

A. These kits should have all the components necessary to set up, for the most part, your PCR reaction.

* * * *

[52] [A.] . . . And also important in these kits is a control piece of DNA, our control DNA from another human source, because obviously if we run the DNA test, we have to make sure that when we run the test we have appropriate controls to make sure the test worked.

One of the important controls is to have a DNA sample from a known person with a known DNA type. And so all kits, whether it's Promega or Applied Biosystems, will require the use of a particular control. In this case, this is a human DNA control from an individual that we run.

* * * *

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

10-cv-281

PROMEGA CORPORATION,

Plaintiff,

MAX-PLANCK-GESELLSCHAFT ZUR
FORDERUNG DER WISSENSCHAFTEN E.V.,

Involuntary Plaintiff,

v.

LIFE TECHNOLOGIES CORPORATION,
INVITROGEN IP HOLDINGS, INC. and
APPLIED BIOSYSTEMS, LLC,

Defendants.

Madison, Wisconsin
February 8, 2012
10:45 a.m.

VOLUME 3-B

STENOGRAPHIC TRANSCRIPT OF THIRD DAY
OF JURY TRIAL MORNING SESSION HELD
BEFORE THE HONORABLE BARBARA B. CRABB

* * * *

[2] INDEX

PLAINTIFF'S WITNESSES	RANDALL DIMOND
EXAMINATION	Redirect by Mr. Troupis
PAGES	26-31

* * * *

[27] Q. And are those kits made in the United States?

A. At the time of that agreement, I was informed by Dr. Moehle that all of their products were made in the United States.

Q. So do you have any reason to believe that either they — either those products or substantial components of those products are not made in the United States today?

A. I don't have any reason to believe that.

Q. And so they would all be subject to payments under the 2006 agreement because they are made or sold in the United States?

A. Correct.

* * * *

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

10-cv-281-BBC

PROMEGA CORPORATION,

Plaintiff,

and

MAX-PLANCK-GESELLSCHAFT zur FORDERUNG der WISSENSCHAFTEN E.V.,

Involuntary Plaintiff,

-vs-

LIFE TECHNOLOGIES CORPORATION, INVITROGEN IP HOLDINGS, INC. and APPLIED BIOSYSTEMS, LLC,

Defendants.

Madison, Wisconsin
February 9, 2012
1:30 p.m.

VOLUME 4-C – DAILY COPY

STENOGRAPHIC TRANSCRIPT OF FOURTH DAY OF JURY TRIAL HELD BEFORE DISTRICT JUDGE BARBARA B. CRABB, and a jury,

* * * *

[2] INDEX

PLAINTIFFS' WITNESSES	LAURA FRANCIS
EXAMINATION	Direct by Mr. Troupis
PAGE	60-86

* * * *

[82] Q So if one were to try to calculate the actual lost profits from these sales, if Promega lost sales—

A Right.

Q — how would you go about it?

[83] A So, do you want —

Q If you want, you may use the board.

THE WITNESS: Is that okay if I come to the board and show how I would do that?

THE COURT: Yes. I think there's a microphone right next to you.

MR. TROUPIS: Or you could try to set it up so this time —

THE COURT: That's fine, too.

THE WITNESS: I'm pretty loud, too.

MR. TROUPIS: And there's some pens there by the water right next to where you were sitting.

THE WITNESS: So I'm going to try and be very simple on how I would do this. But the first thing that I would actually start with was the Life Technologies STR sales.

BY MR. TROUPIS:

Q That has been stipulated to be 707 million dollars.

A Okay. So this is your 707 million. So that's where we start. But then you're going to have to subtract out the permitted sales, right? Those sales that are made in accordance with the licensing agreement. I don't know that number. So what I'm going to do is I'm just going to put an "X" here, okay? But I'm going to subtract that out. And then I'm going to [84] get a number, and that number to the best of our ability represents Promega's lost sales. And once again, I can't calculate it because I don't have "X," so I'm just going to call that "Y." Okay?

So now I know what Promega's lost sales are. This is where that 73.5 percent number becomes important because now I'm going to multiply that by that gross margin percentage and I'm actually just going to put .735 and multiply. Okay? And then what I'm going to get down to is Promega's lost profits. And that's an equal, I'm just going to put a "Z" there.

So very simplistically that is the way that we would go through that calculation. Is that visible?

Q That's good. Thank you. Does that represent — you've done it very simplistically. Does that represent the actual losses during that time period just considering lost profits?

A It's probably low.

* * * *

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

10-cv-281-BBC

PROMEGA CORPORATION,

Plaintiff,

and

MAX-PLANCK-GESELLSCHAFT zur
FORDERUNG der WISSENSCHAFTEN E.V.,

Involuntary Plaintiff,

-vs-

LIFE TECHNOLOGIES CORPORATION,
INVITROGEN IP HOLDINGS, INC. and
APPLIED BIOSYSTEMS, LLC,

Defendants.

Madison, Wisconsin
February 13, 2012
1:15 p.m.

VOLUME 6-C – DAILY COPY

STENOGRAPHIC TRANSCRIPT OF SIXTH DAY OF JURY TRIAL HELD BEFORE DISTRICT JUDGE BARBARA B. CRABB, and a jury,

* * * *

[2]INDEX

DEFENDANTS' WITNESSES RANDALL DIMOND

EXAMINATION Direct by Mr. Troupis

PAGES 34-58

* * * *

[42] MR. TROUPIS: If we might get the PowerPlex 16 or actually the defendants' kit. Either one or both. Your Honor, may I approach the witness and provide him with the 976 and 1015?

THE COURT: You may.

BY MR. TROUPIS:

Q Dr. Dimond, 976 is the defendants' kit; is that correct?

A That is correct.

Q One of the accused kits here.

A Yes. It's the Identifiler Plus.

Q And it also appears on many of the exhibits which [43] you've just identified; correct?

A Yes, it does. Or at least the latter set.

Q Okay. What are the key components of that kit?

A Well, as we talked about earlier, the principle components that allow an STR kit to work and to really differentiate it from tests for other genes are the primers that allow amplification of just the various STR loci.

Another critical component is the DNA polymerases that are used in the polymerase chain reaction to what we call amplify. It's really to make many, many copies of the target DNA that's present. And then the allelic

ladders, which are manufactured mixtures of the major alleles that are found in the human population so that one can compare the amplified material from the test material to the allelic ladder to confirm exactly which allele was present in the test sample. So those are the more important things.

There are buffers and water and other things that are in the kits, but those are the key ingredients.

* * * *

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

10-cv-281

PROMEGA CORPORATION,

Plaintiff,

MAX-PLANCK-GESELLSCHAFT ZUR
FORDERUNG DER WISSENSCHAFTEN E.V.,

Involuntary Plaintiff,

v.

LIFE TECHNOLOGIES CORPORATION,
INVITROGEN IP HOLDINGS, INC. and
APPLIED BIOSYSTEMS, LLC,

Defendants.

Madison, Wisconsin
February 13, 2012
3:05 p.m.

VOLUME 6-D

STENOGRAPHIC TRANSCRIPT OF SIXTH DAY
OF JURY TRIAL AFTERNOON SESSION HELD
BEFORE THE HONORABLE BARBARA B. CRABB

* * * *

[2] INDEX

PLAINTIFF'S WITNESSES	GUIDO SANDULLI
EXAMINATION	Adverse by Mr. Troupis Clarification by Ms. Johnson
PAGES	4-40 40-48

* * * *

[29] Q. Okay. So this is, as best you can tell, for the Identifiler Plus, its a bill of materials for that product?

A. That's correct.

Q. Back to page 16. About halfway down it talks about primers again, US21; do you see that? That would again indicate it's originating in United States, Austin?

A. I'm sorry. Which line?

Q. The line that says *Bulk Primer* and then *Bulk 6-FAM*.

A. Bulk 6-FAM D7, yep, that's correct. The Bulk 6-FAM AMIDITE, it's not a primer.

[30] Q. I'm sorry. That doesn't say that on page 16. I don't know what page you're on.

A. I'm looking at the screen right here says *Bulk 6-FAM AMIDITE*. I believe that's 16. What you've highlighted there is not a primer.

Q. That's fine. That originates in the U.S. as well?

A. The AMIDITE? Yes, it does.

Q. And then I assume we're on page 16. 12 lines down, 13 lines down, it says *Bulk 6-FAM D7*?

A. Yes, that's right.

Q. And that's also in the U.S., a primer?

A. Says *US21,* correct.

Q. Next page, page 17, about halfway down after *ETHYL D19F2 Primer*?

A. The D19F2 Primer.

Q. Yes. That's in the U.S. as well; is that right?

A. That's correct. *US21* is the designation.

Q. And next page, page 18, says *VWA.R.NF100.* That's also U.S., right?

A. Also reference to Austin, correct.

Q. Next page near the bottom again shows the primer, says U.S.?

A. Mm-mm, the *VWA.R.718,* yes, that's correct.

Q. And then on page 22 we see primers again about two-thirds of the way down?

[31] A. The *Pet FGA Primer?*

Q. Yes.

A. Yep, I see it.

Q. And then on the page 25 at the very top it says *Pet AMEL Primer.* Would that be in the U.S. as well?

A. Pet US21 for the AMEL primer.

Q. Then on the next page we see *Bulk Primer* on page 26, U.S., up near the top?

A. Yeah, the Bulk 50 Microliter VIC D3 Primer.

Q. Originates in the U.S.?

A. *US21,* the designation.

Q. Page 27, see primers again about halfway down?

A. The Bulk 50 Microliter VIC TH01 Primer.

Q. Originates in the U.S.?

A. Yes, US21.

Q. Pate [sic] 28 near the bottom we see *Primer US21*?

A. VIC D13 Peg/Dimer Primer, that's correct, also designated *US21.*

Q. Page 30, about halfway down again we see the Peg/Dimer Primer?

A. VIC 50 Micromolar, VIC D2 Peg/Dimer Primer?

Q. Yes.

A. Yes, has the *US21* designation.

Q. In fact, wherever I see *US21* in all of these primers, we could conclude that it was coming from the [32] United States, right?

A. That's right. The *GB11* is a reference to the UK.

Q. But when we see *US21,* it's coming out of Austin?

A. Correct.

Q. And the primers here, all the ones we've looked at least, are all coming out of Austin. And any others that might be in here that indicate *US21* would be coming out of Austin, right?

A. That's correct.

Q. Okay. It's go over to page 39. About a third of the way down it says *GOLD 5 U.S. 26.* Where is that from?

A. GOLD 5?

Q. What's that referring to?

A. I don't know what *US26* is and I don't know what the *GOLD* is referring to.

Q. That's referring to Taq, isn't it, to the right-hand side it says *AMPLITAQ*.

A. I see. Okay. GOLD, that's right. Yeah, there are subsequent references to *Taq Gold* later in the document.

Q. This reference to *Taq, AMPLITAQ* GOLD that we're looking at on page 39, it says *US* and then it has *26*. That means it originates in the United States, right?

A. I can't tell you where *US26 is*. I'm not familiar without looking.

Q. You can't testify that it isn't in the United States [33] because that's what you started out by saying. You said, "If it says *US26*, it's in the United States."

A. That would be a reasonable assumption to make. Again, I don't know where US26 is. I know that US21 is Austin.

Q. You don't know the exact location of US26, but you know it's in the United States?

A. You know, I may have that wrong. But you're right, US26 and 21 are U.S. locations within the U.S. within Life Technologies.

* * * *

[36] Q. The Taq, you recognize when I refer to *Taq*, I'm talking about the Taq DNA polymerase? It might be in a variety of different formats, but the Taq is the

polymerase that's used in these various kits. You understand what I mean, *Taq*?

A. The enzyme that's used in the kits.

Q. That's the enzyme that's used in order to amplify the DNA; is that right?

A. That's correct. So Tag is sort of a generic term there. There are many different kinds, many different manufacturers. I would use the term *enzyme*. Its the enzyme that goes into the kit.

Q. That's why I want to make it clear that when I refer to *Taq*, you refer to *enzyme*, but we're talking about the same thing?

A. Understood.

Q. The Taq polymerase or the polymerase that's utilized in the kits that are assembled in Warrington originates in Texas, am I correct, from Roche?

A. Depends on the kits. Some of them use material that's insourced from Roche. Others use material that were actually produced in Austin, in our factory in Austin.

Q. Didn't you testify that the Tag polymerase used in [37] your kits in Warrington was in fact originated from a stocking and distributing from Austin, Texas? We already know in terms of the products we've said, but more generically

A. Of all the materials that you've showed me, that's absolutely true. The Identifiler Kit and the SGM Plus Kit, the enzymes are from Roche, insourced into the Austin location.

Q. What about as to the other kits and their Taq DNA polymerase?

A. There are some kits that use — is also a Taq GOLD but is produced in Austin, Texas.

Q. It's actually produced in Austin, Texas and shipped?

A. Yes.

Q. Okay. But all of the Taq DNA polymerase that's used in these kits originates in the United States before it gets to England?

A. It is all shipped from — Austin is the center for all of our enzymes. That's where they get ship out to from all of our different customers in all of our different application areas.

Q. Okay. So if there's *Taq,* it came from Texas?

A. For the bills of materials for these products, yes, that's right.

Q. How about for your other STR products?

[38] A. For all of our STR products, the Tag enzyme is either insourced from Roche, brought to Texas or produced in Texas and then shipped out.

* * * *

[39] BY MR. TROUPIS:

Q. So the primers that we were talking about that do originate in the United States apparently originate in Pleasanton, right?

A. That's correct.

Q. Let me ask you, you — that is, Life Technologies — has exact records of each product and where it originates from, 2006 to 2011, in your records? You could actually produce, couldn't you, a bill of materials

for every product for every — for these STR kits like you're looking at there?

A. Correct.

Q. And from that, you could determine, at least based on your testimony, the origins of components from that?

A. The components, that's correct.

Q. We did Identifiler and the primers came from the United States. Identifiler Plus, the primers also come from the United States; isn't that correct?

A. No. I think you selectively picked out the primers in this bill of material that came from the United States. There are many primers in this bill of materials that are produced in the UK.

Q. There are primers utilized in Identifiler that come from the United States?

[40] A. There are primers that are used in Identifiler that come from the United States, that's correct.

Q. And there are primers used in Identifiler Plus that come from the United States, correct?

A. That is correct.

Q. And there are primers in Identifiler Direct that come from the United States, correct?

A. Yes, that is correct. They are all the same primers, actually.

Q. Well, they are different designations in different accused products here, so —

A. Yes, yes.

MR. TROUPIS: That's all I have.

THE COURT: Thank you. Ms. Johnson.

CLARIFICATION

BY MS. JOHNSON:

Q. Mr. Sandulli, there has been some discussion obviously about components of the STR kits. And you testified about various bills of materials, including Plaintiff's Exhibit 884, a few minutes ago. I want to take you up and get a more broader aerial view, if you will.

A. Sure.

Q. Where are Life Technologies' STR kits assembled?

MR. TROUPIS: Objection, beyond the scope.

[41] THE COURT: Overruled.

A. They're assembled in our factory in Warrington in the United Kingdom.

Q. And how do you know that?

A. I've been there several times? [sic]

Q. And how long has that been the case?

A. Since 2005.

Q. And is there anything particular or special about that facility that allows those kits to be manufactured there?

A. Yeah. It's a very specialized facility.

MR. TROUPIS: Objection. Misstated. She called it *manufacture;* it's *assembly.*

MS. JOHNSON: I will restate my question, Your Honor.

BY MS. JOHNSON:

Q. Is there anything particular or special about that facility that allows those kits to be assembled there?

A. Yes. Its very specialized and it is a manufacturing facility, so there are many components that go into the kits. But, for example, the allelic ladder, which is one of the components that goes into the kit, it's amplified material. The ladders are amplified there in a separate facility.

And the issue that's fairly important, it was [42] something we spent a lot of money on, was a dedicated facility separate from the factory where we amplified all the material and put it all into tubes and boxed it up all robotically because the amplified material can easily contaminate a crime lab or sample, so there are a lot of controls that are put in place.

So it's fully automated — the manufacture, tubing, boxing and then shipping out — and it's a specialized facility that you can't go there and come back to the main formulation facility in order to reduce the risk of contamination. So if you ever visit, you have to go home, take a shower, spend the time before you can come back to the main factory.

Inside the main factory, oligos are synthesized, so many of these primers in the bill of materials are synthesized using DNA oligo synthesis machines that I've personally witnessed operating making these primers.

And then there's a dedicated formulation room where — and again, you can see in these documents these are bulks, meaning it comes in a big tube to manufacture the kits, in many cases requires 30-plus

primers. So there's a formulation laboratory in Warrington where the bulks are drawn off of and a primer mix is assembled, which again is a very complex and important process to make sure the kits work accurately, work well in our [43] customers' hands.

Once you do the formulation, then you do the tubing, then you do the packaging and assembling. That's done also on a dedicated assembly line.

Q. And that's been true, you said, since 2005. How do you know that?

A. 2005 is when I started and that's when they were in the process of moving all of those components to Warrington and then I subsequently visited again on several occasions.

Q. You mentioned a moment ago that Warrington facility was a manufacturing facility. What did you mean by that?

A. The components of the kits are in some cases physically made there. In other cases they are — they take the raw materials and formulate them into the finished components that go into the kit and are physically put into the tubes and then packaged up.

Q. What components are physically made in Warrington?

A. The allelic ladder is physically made there. The primer mix is formulated there. The control DNA is formulated there. The reaction mix is formulated there. Again, the reaction mix takes lots of raw materials, in some cases including the enzyme, and mixes them into a reaction mix that then goes into a tube.

Q. Prior to 2005, where was that, if you know, where [44] was that done?

A. Much of that work was done in Foster City in California.

Q. Did the move begin prior to 2005 or when was it completed?

A. It was complete in 2005.

Q. And do you know how long it took to move that process?

A. The process had started before I joined.

Q. Let's talk a little bit about the polymerase. There has been quite a lot of discussion about Taq and PCR and the polymerase. Where does Life obtain that?

A. As I mentioned before, sometimes we buy it in from Roche. Other times we make it in our facility in Austin, Texas. There are a lot of other — there are many different kinds of enzymes that are manufactured in sites all over the world.

Q. And does polymerase have any other uses other than STR?

A. Its a very broad — almost a commodity product that's widely used in research, in sequencing, in gene expression. On the applied market side it's used for food testing kits, for animal health screening products, for human diagnostics. There are many many uses for DNA polymerase enzymes.

[45] Q. So would those all be nonhuman identification sorts of uses?

A. Yes.

Q. There has been discussion of course about the primers. Are there primers that are manufactured in the Warrington facility?

A. Yes.

Q. And do you know which primers those are?

A. I couldn't name them off the top of my head, but they are used in all of our — many of our kits. I want to say all of them, but I would have to go back and look at all the lists of which primers go into which kits. But the Warrington site has a very large oligo synthesis manufacturing facility that makes the oligos that are the primers that go into our kits.

Q. There has been discussion about components of the kits in a general sense of three components. What would you understand those three components to be?

A. I guess I think there's more components than that, but the main ones are the primer mix, the reaction mix and the enzymes. The enzyme is mixed in with the reaction mix.

Q. And so the enzyme would be the Taq polymerase?

A. The enzyme would be the Taq, reaction mix and then the allelic ladder is the other piece that's — I [46] consider that a major component of the kit.

Q. Did any of the allelic ladders continue to be manufactured in Foster City after this move to the UK in '05?

A. No. They've all been made in Warrington, UK since then.

Q. And are there any kits, any STR kits, that contain solely UK primer and allelic ladder with just the Roche enzyme for the third component?

A. Yes, there are.

Q. And what kits would those be?

A. SGM Plus, Cofiler, Profiler Plus, Profiler Plus ID. Those are the ones I can think of off the top of my head.

* * * *

SANDULLI, GUIDO (Vol. 01) – 01/13/2012
1 CLIP (RUNNING 00:00:38.265)

SANDULLI CLIP 1 30(b)(6)

SAND1
1 SEGMENT (RUNNING 00:00:38.265)

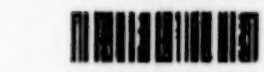
1. PAGE 101:08 TO 101:24 (RUNNING 00:00:38.265)

08 Q. Turn to page 11, if you would, of the
09 exhibit, please.
10 A. I'm there.
11 Q. The sixth line from the bottom, could you
12 read that where it says bulk.
13 A. Bulk amylogen and primer.
14 Q. And that has a U.S. identifier number next
15 to it?
16 A. Yes.
17 Q. And that shows .038 milliliters at .97
18 USD; correct?
19 A. Yes.
20 Q. And so that would have been a component
21 part that would have at some point come from the
22 United States?
23 A. Yes. That would have gone into the primer
24 mix.

SANDULLI, GUIDO (Vol. 01) – 12/14/2011
1 CLIP (RUNNING 00:00:30.947)

SANDULLI CLIP 2

SAND2
1 SEGMENT (RUNNING 00:00:30.947)



1. PAGE 159:12 TO 159:23 (RUNNING 00:00:30.947)

Q. And where are those — first of all, what do you know that is manufactured of the primers in the United States?
A. Know that some of the labeled and mobility modified alligoes are produced at — are synthesized at least in our Pleasanton facility. Where they get their DNTP's and other raw materials from, I don't know.
Q. When you say "our Pleasanton facility" —
A. Life Technologies Pleasanton facility.
Q. Okay. And that's in what state?
A. Pleasanton, California.

Total: 2 CLIPS FROM 2 DEPOSITIONS (RUNNING 00:01:09.212)

SHEPHERD, MICHELLE (Vol. 01) – 07/26/2011 [Shepherd, Michelle]

1 CLIP (RUNNING 00:04:42.843)

THE VIDEOGRAPHER: Good morning. This ...

SHEP
5 SEGMENTS (RUNNING 00:04:42.843)

* * * *

4. PAGE 65:03 TO 65:14 (RUNNING 00:00:37.896)

03 Q. Okay. Since you go there, let me take you
04 to what's been marked as Exhibit 1, and take you to
05 paragraph — the numbered paragraph — 14. You
06 mentioned Foster City as where the kits are
07 manufactured?
08 A. Components of the kits are manufactured in
09 Foster City.
10 Q. And these are the STR kits?
11 A. Yes.
12 Q. Okay. What components? If you know.
13 A. The allelic ladders.
14 Allelic a-l-l-e-l-i-c.

* * * *

II. POST-TRIAL INSTRUCTIONS

* * * *

Question No.2.

Question No. 2 asks you to determine the total dollar value of the defendants' United States sales of STR kits. "United States sales" include all kits made, used, offered for sale, sold within the United States or imported into the United States, as well as kits made outside the United States where a substantial portion of the components are supplied from the United States.

* * * *

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

10-cv-281-bbc

PROMEGA CORPORATION,

Plaintiff,

v.

LIFE TECHNOLOGIES CORPORATION, INVITROGEN IP HOLDINGS, INC. AND APPLIED BIOSYSTEMS, LLC,

Defendants.

SPECIAL VERDICT

We, the jury, for our special verdict, do find as follows:

Question No. 1: What is the total dollar amount of worldwide STR kit sales made between August 29, 2006 through the end of January 2012 by defendants Life Technologies Corporation, Invitrogen IP Holdings. Inc. and Applied Biosystems, LLC?

Answer: $ 707,618,247

(Answered by the court)

Answer Question No. 2.

Question 2: What is the total dollar amount of defendants' sales of STR kits that were United States sales as that term has been defined for you in the instructions?

Answer: $ 707,618,247

Answer Question No. 3.

Question No. 3: Of the sales in your answer to Question No.2, what is the total dollar amount of defendants' STR kit sales that were permitted by the 2006 licensing agreement?

Answer: $ 636,856,422

Answer Question No. 4.

Question No. 4: Subtract the dollar amount you found in Question No. 3 from the dollar amount in your answer to Question No.2.

Answer $ 70,761,825

Answer Question No. 5.

Question No. 5: What profits, if any, did plaintiff lose as a result of defendants' sales that you found in Question No. 4?

Answer: $52,009,941

Answer Question No. 6.

Question No. 6: For those sales from Question No. 5 for which you found that plaintiff has not proven its entitlement to lost profits, what amount of money is a reasonable royalty for plaintiff?

Answer: $ _____

Answer Question No. 7.

Question No. 7: Was defendants' infringement willful?

Answer: YES
(Yes or No)

/s/ [Illegible]
Presiding Juror

Madison, Wisconsin
Dated this 15 day of February, 2012

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

10-cv-281-bbc

PROMEGA CORPORATION,

Plaintiff,

and

MAX-PLANCK-GESELLSCHAFT zur FORDERUNG der WISSENSCHAFTEN E.V.,

Involuntary Plaintiff,

v.

LIFE TECHNOLOGIES CORPORATION, INVITROGEN IP HOLDINGS, INC. and APPLIED BIOSYSTEMS, LLC,

Defendants.

JUDGMENT IN A CIVIL CASE

This action came before the court and a jury with District Judge Barbara B. Crabb presiding. The issues have been tried and the jury has rendered its verdict.

IT IS ORDERED AND ADJUDGED that judgment is entered:

1. granting defendants' motion for partial summary judgment with respect to plaintiff Promega Corporation's claim of infringement of claims 25 and 27-31 of U.S. Patent No. 5,843,660 and

defendants' counterclaims for noninfringement of the same claims;

2. granting plaintiff's motion for summary judgment with respect to the following claims of infringement:

a. AmpF1STR COfiler PCR Amplification Kit infringes claims 23 and 27 of U.S. Patent No. 6,221,598 and claim 42 of U.S. Patent No. RE 37,984;

b. AmpF1STR Profiler PCR Amplification Kit infringes claims 10, 23-24, 27 and 33 of the '598 patent and claim 42 of the '984 patent;

c. AmpF1STR Identifiler PCR Amplification Kit infringes claims 10-23-24 and 27 of the '598 patent, claims 18-19 and 21-23 of U.S. Patent No. 6,479,235, claim 5 of U.S. Patent No. 7,008,771 and claim 42 of the '984 patent;

d. AmpF1STR Profiler Plus PCR Amplification Kit infringes claim 42 of the '984 patent;

e. AmpF1STR Yfiler PCR Amplification Kit infringes claim 42 of the '984 patent;

f. AB Minifiler PCR Amplification Kit infringes claim 42 of the '984 patent;

g. AB SGM Plus PCR Amplification Kit infringes claim 42 of the '984 patent;

h. AB Sefiler Kit infringes claim 42 of the '984 patent;

i. AB Sefiler Plus Kit infringes claim 42 of the '984 patent;

j. NGM PCR Amplification Kit (1000 and 200) infringes claim 42 of the '984 patent;

k. NGM SElect Kit infringes claim 42 of the '984 patent;

l. Identifiler Plus Kit infringes claim 42 of the '984 patent, claim 5 of the '771 patent, claims 18, 19, 21, 22 and 23 of the '235 patent, claims 10, 23, 24, 27 and 33 of the '598 patent;

m. Identifiler Direct Kit infringes claim 42 of the '984 patent, claim 5 of the '771 patent, claims 18, 19, 21, 22 and 23 of the '235 patent, claims 10, 23, 24, 27 and 33 of the '598 patent;

n. AB Green I PCR Amplification Kit infringes claim 42 of the '984 patent and claims 23 and 27 of the '598 patent;

o. Blue PCR Amplification Kit infringes claim 42 of the '984 patent;

p. COfiler + Profiler Plus Kit infringes claim 42 of the '984 patent and claims 23 and 27 of the '598 patent; and

q. the Profiler Plus ID infringes claim 42 of U.S. Patent No. Re 37,984;

3. granting plaintiff's motion for summary judgment with respect to defendants' affirmative defenses and counterclaims that the '235, '598, '660 and '771 patents are invalid because they are anticipated, obvious or not enabled; and

4. awarding damages in favor of plaintiff Promega Corporation against defendants Life Technologies Corporation, Invitrogen IP Holdings, Inc. and Applied Biosystems, LLC in the amount of $52,009,941.

Approved as to form this 21st day of February, 2012.

/s/ Barbara B. Crabb
BARBARA B. CRABB, District Judge

/s/ Peter Oppeneer
PETER OPPENEER, Clerk of Court

2/23/12
Date

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

10-cv-281-bbc

PROMEGA CORPORATION,

Plaintiff,

and

MAX-PLANCK-GESELLSCHAFT zur FORDERUNG der WISSENSCHAFTEN E.V.,

Involuntary Plaintiff,

v.

LIFE TECHNOLOGIES CORPORATION, INVITROGEN IP HOLDINGS, INC. and APPLIED BIOSYSTEMS, LLC,

Defendants.

OPINION and ORDER

This is a case brought under the Patent Act, 35 U.S.C. § 271, involving four patents related to a type of DNA testing called "multiplex amplification of short tandem repeat loci." Plaintiff Promega Corporation contends that defendants Life Technologies Corporation, Invitrogen IP Holdings, Inc. and Applied Biosystems, LLC sell testing kits that meet the limitations for one or more claims in patents that plaintiff owns. In an order dated November 29, 2011, dkt. #345, I agreed with plaintiff that defendants were practicing some of the claims of U.S. Patents Nos. 5,843,660,

6,221,598, 6,479,235, 7,008,771 and Re 37,984. One of the questions that remained for trial was the extent to which defendants were engaging in acts prohibited by the Patent Act because many of the accused products were manufactured and sold in foreign countries and the reach of the Act is more limited in the context of foreign sales.

At trial plaintiff based its theories of infringement on 35 U.S.C. § 271(f)(1) and 35 U.S.C. § 271(a). Section 271(f) prohibits the sale of infringing products if "a substantial portion" of the components of the accused products are supplied from the United States; the relevant portion of § 271(a) prohibits manufacturing infringing products in the United States or importing infringing products into the United States. Plaintiff asked the jury to find that *all* of defendants' sales met the requirements of one or both of these statutes. The jury agreed with plaintiff and awarded more than $50 million in damages.

Defendants filed a motion for judgment as a matter of law under Fed. R. Civ. P. 50 in which they argued that plaintiff had failed to prove its case under either § 271(f)(1) or § 271(a). Although defendants did not deny that plaintiff had adduced evidence that some of the accused products included a substantial portion of components supplied from the United States, were made in the United States or were imported into the United States, defendants argued that "some" was not enough because plaintiff adduced evidence only as to defendants' total worldwide sales, so defendants were entitled to judgment as a matter of law unless all of those sales fell under § 271(a) or (f)(1). In responding to defendants' motion, plaintiff did not deny that it took an "all or nothing" approach at trial, so I con-

cluded that any argument to the contrary was forfeited. Instead, plaintiff argued that the evidence was sufficient to allow the jury to find that all of defendants' sales violated § 271(a) or (f)(1). Ultimately, I agreed with defendants that they were entitled to judgment as a matter of law. As a result I denied as moot defendants' motion for judgment as a matter of law on lost profits calculations, defendants' motions for a new trial, defendants' motion for judgment as a matter of law on nonwillfulness, plaintiff's motion for a finding of an "exceptional case" under 36 U.S.C. § 285, plaintiff's motion for enhanced damages, plaintiff's motion for a permanent injunction and plaintiff's bill of costs. Dkt. #684.

In response to that order, plaintiff has filed three motions: (1) a "motion for amendment of, or relief from, judgment regarding damages, or, in the alternative, for a new trial"; dkt. #693; (2) a "motion for amendment of, or relief from, the judgment with respect to infringement, permanent injunction, and exceptional case finding, or, in the alternative, a new trial," dkt. #690; and (3) a "motion for relief from the amended judgment based on newly discovered evidence and for a new trial." Dkt. #727. In addition, plaintiff has requested oral argument on its motions. Dkt. #697. Finally, defendants have filed a motion to "strike" portions of plaintiff's reply briefs in support of the first two motions. Dkt. #741.

I am denying plaintiff's motion for oral argument because I do not believe oral argument is necessary to resolve any of the motions before the court. I am denying plaintiff's remaining motions as well because plaintiff has failed to show that it is entitled to relief from the amended judgment. Finally, I am denying as unnecessary defendants' motion to "strike" portions of

plaintiff's reply briefs because any new arguments in those briefs would make no difference to the outcome of plaintiff's motions.

OPINION

I will address the arguments in plaintiff's various motions in the following order: (A) the court erred in concluding that plaintiff had failed as a matter of law to prove that all of defendants' sales of the accused products since 2006 violated 35 U.S.C. § 271(a) or 35 U.S.C. § 271(f)(1); (B) if the court adheres to its conclusion, the court should grant a new trial on these issues; (C) the court should not have denied as moot plaintiff's motion for a permanent injunction and motion for attorney fees; and (D) the court should vacate the judgment and hold a new trial because of newly discovered evidence.

A. Motion for Reconsideration as to Damages

1. Section 271(a)

Under § 271(a), "whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefor, infringes the patent." In defending the verdict under this provision, plaintiff argued that the jury could have relied on the deposition testimony of Michelle Shepherd, one of defendants' designated witnesses under Fed. R. Civ. P. 30(b)(6), to find that all of the accused products are made in the United States or imported here. I rejected this argument because Shepherd admitted she did not know whether either of these things was true. Tr. Trans., dkt. #551-1, at 129 ("I'm not certain there—all of these varieties of AmpFLSTR kits are assembled in Foster City [California]. They may be assembled in Warrington

[the United Kingdom]."); *id.* at 129-30 (when asked about origin of kit ordered in Germany, she said that she was "only able to speak to the U.S. shipping and manufacturing").

Although plaintiff argues in its new motion that the evidence was sufficient under § 271(a), it points to no new or different evidence supporting that conclusion. Instead, it argues that Shepherd's testimony alone is sufficient if it is viewed in the light most favorable to plaintiff. In particular, plaintiff points to the following question and answer:

> Q. Okay, So some complete kits may be shipped out of England to a customer?
>
> A. They would be shipped to a warehouse in the States, and from there be shipped to a customer.

Dkt. #551-1 at 129. Plaintiff says that Shepherd did not expressly limit her testimony about the kits that are shipped to "the States," so the jury could infer that she was referring to *all* of defendants' accused products.

This argument has two problems. First, the question was about "some" kits, so Shepherd's answer that "[t]hey" are shipped to the United States does not permit the drawing of any inference about all of the kits shipped since 2006. Second, although courts must draw all reasonable inferences in favor of the non-moving party, this rule does not permit courts to view pieces of evidence in isolation. *Reeves v. Sanderson Plumbing Products, Inc.*, 530 U.S. 133, 150 (2000) ("[I]n entertaining a motion for judgment as a matter of law, the court should review all of the evidence in the record."). Because Shepherd's later testimony made it clear that she did not know where a kit

ordered from Germany would come from, the jury could not draw a reasonable inference from her previous ambiguous statement that she knew that all of defendants' accused products were imported into the United States. Accordingly, I adhere to my conclusion that plaintiff failed as a matter of law to prove that all of defendants' sales of the accused products were made in the United States or imported here.

2. Section 271(f)(1)

Under § 271(f)(1),

> [w]hoever without authority supplies or causes to be supplied in or from the United States all or a substantial portion of the components of a patented invention, where such components are uncombined in whole or in part, in such manner as to actively induce the combination of such components outside of the United States in a manner that would infringe the patent if such combination occurred within the United States, shall be liable as an infringer.

In granting defendants' Rule 50 motion, I concluded that plaintiff had failed as a matter of law to prove that all of the accused products satisfied two elements of this statute, first, that a "substantial portion of the components" was supplied from the United States and, second, that defendants "actively induce[d]" the combination of components. Dkt. #684 at 8-18. With respect to a "substantial portion" of components, I concluded that the statute requires that at least two components be supplied from the United States and that plaintiff had failed to show that all of the accused products from the relevant time period were made with two or more components supplied from the United States. With respect to active inducement, I

relied on several factors to conclude that the statute required the involvement of a third party and that plaintiff did not deny defendants' contention that defendants had done all the combining themselves.

In its new motion, plaintiff challenges the court's conclusion on both elements. With respect to a "substantial portion," it argues in its opening brief that the evidence was sufficient to show that all of the accused products included Taq polymerase and allelic ladders supplied from the United States, but it admits in its reply brief that the "documents show that not every STR kit throughout the damages period had allelic ladders that were supplied from the United States," dkt. #726 at 26, so this argument is moot. Although plaintiff says that it is challenging the court's conclusion that § 271(f)(1) requires that two components be supplied from the United States, it does not develop an argument on this point, so it has forfeited the point for the purpose of this motion.

With respect to active inducement, plaintiff relies primarily on a case decided by the Court of Appeals for the Federal Circuit after this court granted defendants' Rule 50 motion, *Akamai Technologies, Inc. v. Limelight Networks, Inc.*, 692 F.3d 1301 (Fed. Cir. 2012). However, nothing in *Akamai* suggests that a party may "induce" itself under § 271(f), so it is not instructive.

Plaintiff raises an alternative argument that defendants did not "induce" themselves, but their "foreign divisions, subsidiaries or employees." Plt.'s Br., dkt. #726, at 23. This is a new argument. Plaintiff points to a sentence in its brief in opposition to defendants' Rule 50 motion in which it stated that § 271(f)(1) "includes the situation where an offshore division of a company is supplied components," but

this was in the context of a larger argument that "there is nothing in the statute that limits it to situations where only a third party creates the combination." Dkt. #616 at 8. Plaintiff never developed an argument until now that the entity or entities combining the components overseas could be considered distinct from defendants. Accordingly, that argument is forfeited as well.

B. Motion for a New Trial on Damages

In the event that the court denies its motion for reconsideration on these issues, plaintiff asks for a new trial to prove a lesser amount of damages. I conclude that this is another forfeited argument. In their postverdict motions defendants did not seek a new trial under Fed. R. Civ. P. 59 on the ground that the particular amount of damages found by the jury could not be sustained. Rather, defendants sought judgment as a matter of law under Fed. R. Civ. P. 50 on the ground that plaintiff had failed to prove *any* damages. *See generally* Dfts.' Br., dkt. #581. In particular, defendants argued that plaintiff's evidence at trial related solely to defendants' total worldwide sales and that plaintiff had made no attempt to quantify the sales of any subset of products. Because the evidence did not support a finding that all of defendants' sales violated § 271(a) or § 271(f)(1), defendants argued, this left plaintiff with no evidence of damages.

In response to defendants' motion, plaintiff argued that the motion should be denied because the evidence was sufficient to support the jury's finding that *all* of defendants' sales of the accused products violated § 271(f)(1) or § 271(a). Plaintiff did *not* argue in the alternative that defendants' Rule 50 motion should be denied because the trial record was sufficient to support a lesser damages award and it did not respond

in any way to defendants' contention that plaintiff's evidence at trial was limited to defendants' total worldwide sales. As a result, I concluded that plaintiff had conceded this issue. Dkt. #684 at 8-9.

Although my finding that plaintiff had failed to address this issue was explicit in the September 13 order, plaintiff does not challenge the finding in its new motion. Accordingly, I need not consider this issue further. "A party may not introduce evidence or make arguments in a Rule 59 motion that could or should have been presented to the court prior to judgment." *United States v. 47 West 644 Route 38, Maple Park, Illinois*, 190 F.3d 781, 783 (7th Cir. 1999). If plaintiff believed that the evidence at trial could support a lesser damages award, it could have and should have raised that issue in response to defendants' Rule 50 motion.

C. Injunctive Relief and Attorney Fees

When I granted defendants' Rule 50 motion, I denied as moot plaintiff's motion for a permanent injunction and its request for attorney fees under 35 U.S.C. § 285. In its new motion, plaintiff argues that doing so was a mistake, even if the court was correct in concluding that plaintiff was not entitled to any damages.

With respect to the motion for a permanent injunction, plaintiff argues that it is still entitled to one because it has proven that some of defendants' sales of the accused products violated § 271(a) and § 271(f)(1). However, even if I agreed with plaintiff that some unspecified amount of defendants' sales fall within § 271(a) or § 271(f)(1), plaintiff points to no findings by this court or the jury that would allow the court to determine what the proper scope of any injunction

should be. Although plaintiff performs a detailed exegesis of the court's summary judgment opinion and its own summary judgment briefs in an attempt to show that the court resolved the issue of infringement at summary judgment, plaintiff never asked in its summary judgment motion that the court find that any particular act by defendants violated § 271(a) or § 271(f)(1) with respect to a particular accused product. Plaintiff says that defendants waived the issue by failing to raise it in their summary judgment opposition materials, but proving violations of these provisions was plaintiff's burden, not defendants', so it is not clear why defendants would have the obligation to raise an issue that was not included in plaintiff's summary judgment motion.

The same is true of the jury verdict. Plaintiff did not ask for a jury question on the extent to which defendants violated § 271(a) or § 271(f)(1) with respect to particular accused products. Plaintiff fails to explain in any of its briefs under what authority the court could issue an injunction in the absence of those findings. (Plaintiff does not develop an argument that the court could enjoin defendants' activities regarding a particular product without a corresponding finding that defendants violated § 271(a), § 271(f)(1) or some other provision of the patent statute with respect to that product, so I do not consider that question.) Although plaintiff asks for a new trial to fill in any gaps, plaintiff is not entitled to a do-over when it was plaintiff's own failure to request more specific findings in the verdict form that caused the problem.

With respect to plaintiff's request for attorney fees under 35 U.S.C. § 285, I see no reason to reconsider the denial of that request. Because plaintiff has not shown that it is entitled to damages or an injunction,

I cannot find plaintiff has shown that this is an "exceptional" case that would justify an award of attorney fees.

D. Newly Discovered Evidence

Plaintiff says that defendants provided information in the context of arbitration proceedings that they should have provided in the context of this case and that, if plaintiff had obtained that information before the trial, the result of this case would have been different. In particular, plaintiff says that defendants' "bills of materials" and "business objects data" spreadsheets would help prove the extent of defendants' United States sales.

Plaintiff brings this motion under Fed. R. Civ. P. 60(b)(2), which applies when the party has "newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b)." However, it is undisputed that plaintiff obtained the evidence at issue in August 2012 and plaintiff's time for filing a Rule 59 motion expired 28 days after the court entered an amended judgment in September 2012, but plaintiff did not file its Rule 60 motion until December 2012. In its opening brief, plaintiff fails to explain why it could not have raised this issue earlier. It says only that the "meaning [of the evidence] was not fully explained until [November 2012] at the Rule 30(b)(6) depositions of Defendants' witnesses." Dkt. #728 at 13. *See also id.* at 26. This conclusory statement does not satisfy plaintiff's "extraordinary" burden under Rule 60(b)(2) to show that it could not have discovered the evidence it needed by October 2012. *Musch v. Domtar Industries, Inc.*, 587 F.3d 857, 861 (7th Cir. 2009). Although plaintiff attempts to provide more explanation in its reply brief, that effort comes too late. *Casna*

v. City of Loves Park, 574 F.3d 420, 427 (7th Cir. 2009). In any event, plaintiff never argues that the new evidence shows that all of defendants' sales after 2006 fall within § 271(a) or § 271(f)(1), which was the question addressed in defendants' Rule 50 motion.

To the extent plaintiff means to argue that it would have used the evidence at trial to show that the jury could award a lesser amount of damages, I have concluded that plaintiff has forfeited that argument. Further, plaintiff does not persuasively rebut defendants' arguments that the discovery it obtained after trial would not have made any difference because plaintiff did not make use at trial of the geographical information it already had, that plaintiff knew during the trial about the existence of the documents it later obtained but failed to ask for them and that plaintiff has failed to point to any discovery request in this case that would have required defendants to produce the documents at issue. Accordingly, I am denying plaintiff's motion under Rule 60(b)(2).

ORDER

IT IS ORDERED that

1. Plaintiff Promega Corporation's "motion for amendment of, or relief from, judgment regarding damages, or, in the alternative, for a new trial," dkt. #693, is DENIED.

2. Plaintiff's "motion for amendment of, or relief from, the judgment with respect to infringement, permanent injunction, and exceptional case finding, or, in the alternative, a new trial," dkt. #690, is DENIED.

3. Plaintiff's "motion for relief from the amended judgment based on newly discovered evidence and for a new trial," dkt. #727, is DENIED.

4. Plaintiff's motion for oral argument, dkt. #697, is DENIED.

5. The motion filed by defendants Life Technologies Corporation, Invitrogen IP Holdings, Inc. and Applied Biosystems, LLC to "strike" portions of plaintiff's reply briefs in support of the first two motions, dkt. #741, is DENIED as unnecessary.

Entered this 22d day of April, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge